Acta Sanctae Sedis

Acts of the Holy See

Holy See; Vatican

An English translation of the Latin edition
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[*Latin ed. p. 1*]

FROM THOSE MATTERS WHICH ARE HANDLED AT THE HOLY SEE, A COMPENDIUM CONVENIENTLY COMPILED AND ILLUSTRATED, OR: Legal and more solemn acts emanating directly from the Supreme Roman Pontiff: acts among those which can be made public under the law, whether they are Decrees, Instructions, Responses, and other similar matters; especially, expositions and resolutions of cases from the various Sacred Congregations of the Most Eminent Cardinals, contributing to the accurate understanding and observance of ecclesiastical law, carefully compiled in a compendium: finally, other legal matters, by which those things which may present difficulty in the aforementioned acts, or which further contribute to the knowledge of existing law, are suitably illustrated: for the benefit of those who diligently seek to understand the laws of the Church, and who labor diligently in the governance of the Christian flock, or in cultivating the Lord's vineyard.

ROME, AT THE POLYGLOT PRINTING OFFICE OF THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, A.D. 1868.

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[*Latin ed. p. 3*]

3 APOSTOLIC LETTERS, from the Most Holy Father, by Divine Providence "POPE PIUS IX," in which it is indicated that an Ecumenical Council is to be held in ROME, to begin on the Feast of the Immaculate Conception of the Most Holy Virgin, in the year 1869. PIUS, Bishop, Servant of the Servants of God, for the sake of posterity:

"The Unigenit Son of the Eternal Father, out of the exceeding love with which He loved us, so that the entire human race might be redeemed from the yoke of sin, and from the captivity of the devil, and from the darkness of errors, by which the first parents had for so long miserably oppressed us, descended from the heavenly seat, not ceasing from the paternal glory, and, clothed in mortal flesh from the Immaculate and Most Holy Virgin Mary, manifested the doctrine and the discipline of life brought down from heaven, and confirmed it by many wondrous works, and offered Himself

for us as a sacrifice and oblation to God, a sweet-smelling incense. Before, however, conquering death, He would ascend triumphantly into heaven, to take His seat at the right hand of the Father, He sent the Apostles into the whole world, that they might preach the Gospel to every creature, and He gave them the power to govern the Church, which He had acquired with His blood, and which is established as a pillar and a firm foundation of truth, and as a safe path to salvation, enriched with heavenly treasures, and as the light of true doctrine for all."

[*Latin ed. p. 4*]

"APOSTOLIC LETTERS. They demonstrate, and like a ship, they navigate this age, so that, as the world perishes, they may preserve unharmed all those whom they receive (1). In order that the governance of this same Church may always proceed rightly and in order, and that all the Christian people may always persevere in one faith, doctrine, charity, and communion, He promised to remain perpetually with them until the consummation of the age, and He also chose Peter from among all, whom He constituted the prince of the Apostles, His Vicar here on earth, and the head, foundation, and center of the Church, that with a degree of order and honor, and also with the fullest extent of authority, power, and jurisdiction, He might feed the sheep and the goats, confirm the brethren, and govern the entire Church, and be the gatekeeper of heaven, and the judge of things to be settled and resolved, even in the heavens, in the definition of His judgments (2). And since the unity and integrity of the Church, and its governance, established by the same Christ, must perpetually remain stable, therefore, in the Roman Pontiffs, the successors of Peter, who are placed in this very Roman See of Peter, the very highest power, jurisdiction, and primacy of Peter fully persevere and flourish in the entire Church. Therefore, the Roman Pontiffs, using the power and care entrusted to them by Christ the Lord, in the person of Blessed Peter, have never ceased to undertake all labors, to undertake all plans, so that from the rising of the sun to its setting, all peoples, nations, and tribes might acknowledge the evangelical doctrine, and, walking in the ways of truth and justice, might attain eternal life. Moreover, all know that these same Roman Pontiffs, with tireless diligence, have guarded the deposit of faith, the discipline of the clergy, and its holy and learned institutions, and the sanctity and dignity of marriage, and have daily promoted the education of Christian youth of both sexes, and have fostered the religion, piety, and honesty of morals of the people, and have defended justice, and have striven to promote the tranquility, order, and prosperity of civil society. And the Pontiffs have not neglected, when they deemed it opportune, especially in times of the

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gravest disturbances,..."

[*Latin ed. p. 5*]

APOSTOLIC LETTERS. "General Councils are convened by us, for the sake of our most holy religion, and for the calamities afflicting civil society, so that, together with the Bishops of the entire Catholic world, whom the Holy Spirit has placed to govern the Church of God, after having conferred counsel, and joined forces, they may prudently and wisely determine all those things which may contribute to defining the most essential dogmas of the faith, to suppressing the errors that are spreading, to promoting, illustrating, and developing the Catholic doctrine, to defending and restoring ecclesiastical discipline, and to correcting the corrupt morals of the people."

Indeed, it is now clear to all, and has been thoroughly investigated, what a terrible time the Church is experiencing, and with what great evils civil society itself is afflicted. For the Catholic Church, and its salutary doctrine and venerable authority, and the supreme authority of this Apostolic See, are being attacked, trampled upon, and all things sacred are despised, and ecclesiastical goods are plundered, and the sacred ministers, and especially those men devoted to the divine ministry, and those outstanding in Catholic sentiments, are persecuted in every way. Religious families are destroyed, and books of every kind of wickedness, and pestilent periodicals, and manifold and most pernicious sects are spread everywhere, and the instruction of the miserable youth is almost everywhere abandoned by the clergy, and what is worse, in many places institutions have been entrusted to teachers of iniquity and error. Hence, with the greatest sorrow, and with the lamentable loss of souls that can never be sufficiently deplored, impiety, and the corruption of morals, and unrestrained licentiousness, and the opinions of every kind of wickedness, and the contagion of all vices and crimes, and the violation of divine and human laws, have spread so widely that not only our most holy religion, but also civil society itself is terribly disturbed and afflicted.

Therefore, in such great calamities, which overwhelm our heart, the supreme pastoral ministry entrusted to us by God demands that we exert all our forces, more and more, to repair the ruins of the Church, to care for the salvation of the entire flock of the Lord, and to suppress the efforts and attempts of those who seek to utterly destroy the Church itself, if it were ever possible, and civil society. We, with God's help, and from the very beginning of our supreme pontificate, have never failed to fulfill the duties of our most serious office, but rather...

[*Latin ed. p. 6*]

6. APOSTOLIC LETTERS. Through Our Consistorial Addresses, and Apostolic Letters, We strive to raise Our voice, and with constant zeal to

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defend the cause of God, and of His holy Church, which has been entrusted to Us by Christ the Lord, and to uphold the rights of this Apostolic See, of justice, and of truth, to expose the snares of enemies, to condemn errors and false doctrines, to proscribe sects of impiety, and to watch over and provide for the salvation of the entire flock of the Lord. "Therefore, considering it fitting to follow the illustrious footsteps of Our Predecessors, We have deemed it necessary to convene a General Council, which has long been desired by Us, and to summon all Venerable Brothers, the Sacred Ministers of the entire Catholic world, who have been called to share in Our concern. These Venerable Brothers, inflamed with singular love for the Catholic Church, and with exceptional piety and devotion towards Us and this Apostolic See, and anxious for the salvation of souls, and distinguished by wisdom, doctrine, and learning, and who, together with Us, deeply lament the most grievous condition of both sacred and public affairs, have nothing more pressing than to communicate with Us, and to confer counsel, and to apply salutary remedies to all these calamities. In this Ecumenical Council, all matters must be carefully examined and determined, especially those which, in these particularly difficult times, primarily concern the greater glory of God, the integrity of the faith, the splendor of divine worship, the eternal salvation of men, the discipline of both clergy, and its salutary and solid development, the observance of ecclesiastical laws, the reform of morals, the Christian education of youth, and the common peace and harmony of all. And it must also be diligently sought, with God's blessing, that all evils be removed from the Church and from civil society, so that the miserable and wandering may be brought back to the path of truth, justice, and salvation, so that, freed from vices and errors, Our august religion and its salutary doctrine may flourish everywhere on earth, and may spread and prevail more and more each day, and so that piety, honesty, integrity, justice, charity, and all Christian virtues may flourish with the greatest benefit to human society. For no one will ever be able to deny the power of the Catholic Church, and of its doctrine, not only for the eternal salvation of men...

[*Latin ed. p. 7*]

APOSTOLIC LETTERS. These [letters] are to be observed, and they also serve the temporal good of the people, and their true prosperity, order, and tranquility, and also the progress and stability of human sciences, as the annals of both sacred and profane history clearly and openly demonstrate, and constantly and evidently show. And since Christ the Lord wonderfully refreshes, rejects, and consoles us with these words: "For where there are two or three gathered together in my name, there am I in the midst of them," we cannot doubt that He Himself desires to be abundantly present to us in this Council, so that we may establish all those things which pertain in any way to the greater good of His holy Church. Therefore, we have

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judged it entirely fitting to commend this Council to God, the Father of lights, with fervent prayers, both day and night, with our hearts humbled. Wherefore, by the authority of the Almighty Father, and the Son, and the Holy Spirit, and of our blessed Apostles Peter and Paul, with which authority we also exercise in the earth, and with the counsel and consent of our Venerable Brothers, the Cardinals of the Holy Roman Church, we declare, announce, convene, and establish that a sacred, ecumenical, and general Council is to be held in this our beloved City of Rome, in the coming year of one thousand eight hundred and sixty-nine, in the Vatican Basilica, to be begun, pursued, and, with the Lord's help, completed for His glory, for the salvation of the entire Christian people, on the eighth day of the month of December, the Conception of the Immaculate Virgin Mary. And therefore, we will, we command, that all Venerable Brothers, Patriarchs, Archbishops, Bishops, as well as our beloved Sons, Abbots, and all others to whom, by law or privilege, the power has been granted to reside in general councils and to express opinions therein, should come to this ecumenical council which we have convened, requiring, exhorting, admonishing, and, by the force of law, compelling them, that they may fulfill what they have promised to Us, and to this Holy See, and by the virtue of holy obedience, and under the penalties prescribed by law or custom against those who do not attend the celebrations of councils, and that they may present their customary offerings, commanding and strictly enjoining them that they themselves, unless they are justly hindered by some impediment, which, however, must be demonstrated by legitimate procurators.

[*Latin ed. p. 8*]

"LETTERS APOSTOLIC. They shall be obliged to prove that they are entirely present at this Holy Council, and shall be held to attend. We place our hope in this, that God, in whose hands are the hearts of men, may, with His ineffable mercy and grace, favorably receive our wishes, and may cause that all the highest Princes of all peoples, and especially the Catholic rulers, recognizing daily the great good that flows from the Catholic Church to human society, and that the same is the firmest foundation of Empires and Kingdoms, not only do not hinder in any way the coming of the Venerable Brothers, the Sacred Prelates, and all those mentioned above to this Council, but also willingly favor them, and with the utmost diligence, as befits Catholic Princes, cooperate with them in all that may contribute to the greater glory of God, and to the good of this Council. In order that Our Letters, and all that they contain, may reach the knowledge of all those for whom they are intended, and that none may plead ignorance as an excuse, especially since perhaps safe access may not be available to all those to whom they should be personally delivered, We wish and command that they be publicly read aloud in the Patriarchal Basilicas of the Lateran, the Vatican, and the Liberian, since it is customary for a large crowd of people

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to gather there to hear the divine word, by Our Court messengers, or by some public notaries; and that they be affixed to the doors of the aforementioned Churches, as well as to the doors of the Apostolic Chancery, and to the usual place in the Campo Flora, and in other customary places, where they shall remain displayed for a time for reading and for the knowledge of all; and when they are removed from there, copies of them shall nevertheless remain affixed in the same places. We wish and command that all and each of those whom Our aforementioned Letters include, after a period of two months from the day of the publication and affixing of these Letters, be bound and obligated as if they themselves had been read and notified of them, provided that copies of them have been written or signed by the hand of a public notary, and sealed with the seal of some person of a Church office, so that certain and undoubted faith may be had; We command and decree this. Therefore, it is not permitted to any human being to disregard this page of Our Indiction, Announcement, Convocation, Statute, Decree, Mandate."

[*Latin ed. p. 9*]

APOSTOLIC LETTERS. "Nine precepts, and the very obligation itself, are to be observed, and no one ought to dare to transgress or, with reckless audacity, to oppose them. But if anyone should presume to attempt this, let him know that he will incur the wrath of Almighty God, and of the Blessed Apostles Peter and Paul. "Given at Rome, near Saint Peter, in the year One Thousand Eight Hundred and Sixty-Eighth, on the third day before the Kalends of July. "In the twentieth year of Our Pontificate.

[Signatures]

I, PIUS, Bishop of the Catholic Church.

I, Marius, Bishop of Ostia and Velletri, Cardinal Dean of the College of Cardinals, Secretary.

I, Constantine, Bishop of Porto and Santa Rufina, Cardinal Patrizi.

I, Aloysius, Bishop of Praeneste, Cardinal Amat, Secretary of the Sacred Roman Consistory.

I, Nicholas, Bishop of Tusculum, Cardinal Paroeciani Clarelli, Secretary for Briefs.

I, Camillus, Bishop of Alba, Cardinal Di Pietro.

I, Charles Augustus, Bishop of Sabina, Cardinal de Reisach.

I, Philip, Titular of Saint Lawrence in Lucina, Protopresbyter, Cardinal De Angelis, Archbishop of Firmiano, and Secretary of the Sacred Roman Consistory.

I, Fabius Maria, Titular of Saint Stephen in Monte Celio, Presbyter, Cardinal Asquini.

I, Alexander, Titular of Saint Susanna, Presbyter, Cardinal Barnaba.

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I, Joseph, Titular of Saint Mary in Ara Coeli, Presbyter, Cardinal Milesi.

I, Peter, Titular of Saint Mark, Presbyter, Cardinal de Silvestri.

I, Charles, Titular of Saint Mary of the People, Presbyter, Cardinal Sacconi.

I, Angelus, Titular of Saints Andrew and George in Monte Celio, Presbyter, Cardinal Quaglia.

I, Father Anthony Mary, Titular of the Twelve Apostles, Presbyter, Cardinal Panbianco, Penitentiary Major.

I, Antoninus, Titular of the Four Crowned Saints, Presbyter, Cardinal de Luca.

I, Joseph Andrew, Titular of Saint Jerome of the Illyrians, Presbyter, Cardinal Bizzarri.

I, John Baptist, Titular of Saint Callixtus, Presbyter, Cardinal Pitra.

[*Latin ed. p. 10*]

10 APOSTOLIC LETTERS. I, Father Philip Mary, Titular Priest of Saint Xystus, Cardinal Guidi, Archbishop of Bologna. I, Gustavus, Titular Priest of Saint Mary in Transpontina, Cardinal d'Hohenlohe. I, Aloysius, Titular Priest of Saint Lawrence in Pane Perna, Cardinal Bilio. I, Lucian, Titular Priest of Saint Pudenziana, Cardinal Bonaparte. I, Joseph, Titular Priest of Saints Marcellinus and Peter, Cardinal Berardi. I, Raphael, Titular Priest of the Holy Cross in Jerusalem, Cardinal Monaco. I, James, Titular Priest of Saint Mary in Via Lata, Protopriest, Cardinal Antonelli. I, Prosper, Titular Priest of Saint Mary Scalaris, Deacon, Cardinal Caterini. I, Theodulphus, Titular Priest of Saint Eustachius, Deacon, Cardinal Mertel. I, Dominic, Titular Priest of Saint Mary in Domnica, Deacon, Cardinal Consolini. I, Edward, Titular Priest of Saints Vitus and Modestus, Deacon, Cardinal Borromeo. I, Hannibal, Titular Priest of Saint Mary in Aquiro, Deacon, Cardinal Capalti. Most Reverend Cardinal Mattei, Pro-Datary; Most Reverend Cardinal Paracciani Clarelli. Place: Lead Seal, Registered in the Briefs Secretariat of the Holy Lord of the Court, D. Bruti. 1. Cugnionius. OUR HOLY FATHER POPE PIUS IX, ADDRESS GIVEN IN SECRET CONSISTORY ON THE TWENTY-SECOND DAY OF JUNE, MDCCCLXVII. Venerable Brothers. We could never have imagined, Venerable Brothers, that after the Convention held by Us with the Emperor and King Apostolic of Austria, which brought joy to all good men, we would be compelled today, almost thirteen years later, to deplore the most grievous misfortunes and calamities, wrought by the actions of our enemies.

[*Latin ed. p. 11*]

APOSTOLIC LETTERS. 11. Now, within the Austrian Empire, the Catholic Church is grievously afflicted and disturbed. For indeed, the enemies of our sacred religion have not ceased to strive to destroy the

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same [Convention], and to inflict the greatest injuries upon the Church, upon Us, and upon this Apostolic See. For on the twenty-first day of the month of December of the past year, a law was enacted by the Austrian Government, which, as if it were the foundation of the State, must hold valid and be entirely in force in all regions of the Empire, even those where the Catholic religion is exclusively practiced. This law establishes the freedom of all opinions, and of the art of printing; the freedom of faith, of conscience, and of doctrine; and grants to each citizen the faculty of establishing institutions of education and instruction, and all kinds of religious societies are made equal and recognized by the State. Indeed, as soon as we learned of this, we wished immediately to raise our voice, but, using prudence, we deemed it advisable to remain silent for a time, especially sustained by the hope that the Austrian Government, heeding the most just expostulations of the Venerable Fathers, the Sacred Prelates in Austria, would be willing to adopt a sounder judgment and undertake better measures. But our hopes were in vain. For on the twenty-fifth day of the month of May of this year, the same Government enacted another law, which obliges and commands all the peoples of that Empire, even Catholics, that the children born of mixed marriages must follow the religion of the father, if they are males, and the religion of the mother, if they are females, and that those who are under seven years of age must, in defiance of the true faith, follow the religion of their parents. Furthermore, this same law completely removes the force of the promises which the Catholic Church justly and by the best of right demands and prescribes before mixed marriages are celebrated; and apostasy, both from the Catholic and from the Christian religion, is elevated to civil law, and all authority of the Church in sacred burial grounds is removed, and Catholics are compelled to bury the bodies of heretics in their own burial grounds, when the latter do not have their own. Moreover, on the very same twenty-fifth day of May of this year, the Government did not hesitate to promulgate a law concerning marriage itself, by which the laws enacted according to the norm of our aforementioned Convention are completely abolished, and the old Austrian laws, which are vehemently opposed to the laws of the Church, are restored to their former vigor; and marriage, as they say,

[*Latin ed. p. 12*]

12 APOSTOLIC LETTERS. It asserts and confirms that it is entirely reprehensible for any civil authority to deny the validity of a marriage when the authority of the Church does not recognize the cause for the denial as valid or legal by civil authority. And by this law, the Government has removed all authority and jurisdiction of the Church concerning marriage cases, and all tribunals. It has also promulgated a law concerning schools, by which all power of the Church is destroyed, and it is decreed that all institutions of

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letters and disciplines, and the inspection and oversight of schools, belong to the State, and it is established that only religious institutions in public schools shall be directed by the authority of each cult, and that various societies of each religion may open their own schools for the youth who profess that creed, and that such schools shall also be subject to the oversight of the State, and that textbooks for instruction shall be approved by the civil authority, except for those books that serve the religious institution, which must be approved by the authority of each cult. "You see, Venerable Brothers, how strongly such abominable laws, enacted by the Austrian Government, are to be condemned, and how they are contrary to the doctrine of the Catholic Church, and to its venerable rights, authority, divine constitution, and to the power of this Our See and of Our aforementioned Convention, and indeed to natural law itself. Therefore, for the sake of all the Churches, and because of the apostolic mission entrusted to Us by Christ the Lord, We raise Our apostolic voice in this vast assembly of yours, and We condemn the aforementioned laws, and all and each of those things, whether in these matters or in others pertaining to the rights of the Church, which have been decreed, enacted, or attempted in any way by the Austrian Government or by any inferior magistrates, We condemn by Our Apostolic authority, and We declare that the decrees themselves, together with all that follows from them, are null and void, and have no force, and We declare that they shall be so. And We exhort and implore those authors, especially those who glory in being Catholics, who have not hesitated to propose, enact, or approve and execute these laws, to remember the censures and spiritual penalties which are prescribed by the Apostolic Constitutions, and..."

[*Latin ed. p. 13*]

APOSTOLIC LETTERS. The decrees of the Oecumenical Councils against those who violate the rights of the Church are, by their very nature, to be enforced. "Meanwhile, we are exceedingly pleased in the Lord, and we render due praise to the Venerable Brothers, Archbishops and Bishops of the Austrian Empire, who, with episcopal authority, both in word and in writing, have not ceased to defend the cause of the Church, and our aforementioned Convention, and to admonish the flock entrusted to their care. And we earnestly hope that the Venerable Brothers of Hungary, imitating the excellent example of their colleagues, will be willing to devote the same zeal and diligence to safeguarding all the rights of the Church, and to upholding this very Convention." In these matters, in which the Church is afflicted everywhere in these most grievous times by calamities, let us not cease, Venerable Brothers, but with ever greater zeal, to implore God from the depths of our hearts, that He may, with His almighty power, scatter the nefarious designs of His enemies, and those of His holy Church, and to restrain their impious efforts, to break their force, and to bring them back to the paths of justice and salvation through His

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mercy." FROM THE SACRED CONGREGATION FOR THE EASTERN CHURCH. CONCERNING TRANSLATION AND SUSPENSION. July 5, 1868. The present matter brings to light frequent questions that arise in Gallus, among the Parochial Vicars, who in those regions are called *Desservants*, and among the Bishops. Briefly, in a certain town of the Archdiocese of N. Galliarum, which town is inhabited by approximately 2,500 faithful, there exists a parish church which is renowned for its miraculous image of the Virgin Mary, to which pilgrims flock, drawn by devotion.

[*Latin ed. p. 14*]

14. OF TRANSLATIONS AND SUSPENSIONS. From the year 1835, the Rector of this parish was a removable priest, according to the custom of those regions, and that priest was Philip, who greatly promoted those pilgrimages with his zeal. However, in August of the year 1863, the Archbishop informed the same parish priest that he had heard that he persisted in the intention of establishing a certain community of women, who would take care of the pilgrims, contrary to his manifest will; and furthermore, the Archbishop informed the same parish priest that, for several years, reports had reached his court which were not very favorable concerning the manner in which the solemn novena prayers were conducted in that parish church, and in the meantime, he forbade him from celebrating novena prayers and from performing the office of preaching to any priest without his special authority, also indicating that he would remove Philip from that parish at the slightest difficulty arising. What, however, consisted in those unfavorable reports, which were presented to the archiepiscopal court, appears from the following. In May and September, several sacred missions, or solemn novena prayers, were arranged for the benefit of the upcoming pilgrimage. All of these were publicly announced individually, with specific days, functions, and preachers. The railway companies assisted in these publications, and they promoted the travel of delegations at a reduced price. Consequently, many thousands of people would flock to that town, and since sufficient lodging could not be found there, especially for several days, it was easy for confusion to arise; all the more so because people of every kind would arrive, many of whom came not for the sake of piety, but, for example, specifically merchants and dancers. Meanwhile, the parish priest, with a mind set on the plan of establishing a community of women who would take care of the lodging of the pilgrims, was concerned with providing for the pilgrims' lodging; and by doing so, he easily became involved in accidents and disturbances of order. Furthermore, he spent the proceeds of the pilgrimages on profane festivities, although the Archbishop repeatedly insisted that he provide for the parish house, which the church lacked, that he furnish the sacristy with sacred furnishings, which were indecent,

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and that he enlarge the church, which was...

[*Latin ed. p. 15*]

TRANSLATION AND SUSPENSION. On August 15th, a large crowd gathered, surrounding the cemetery which was exposed to profanations. The parish priest finally entrusted the task of preaching to several priests, specifically to one named Livius, who were criticizing the diocesan administration and, in their sermons, were spreading accounts of miracles and graces which had not been recognized by the curia. It is unnecessary for the intelligent reader to recount all that subsequently occurred through mutual letters between the parish priest and the curia. The parish priest, from the beginning, appeared to be more or less obedient to the episcopal prescriptions; but, as he persisted in his manner of acting, which initially seemed to stem from imprudence, and then from obstinate disobedience, the Archbishop, on the contrary, with deliberate slowness but with the most steadfast resolve, insisted on what he had prescribed, namely, that everything should proceed properly in those public solemnities, and that the diocesan statute, which required that, in the event of missions or pious exercises, the parish priest should request a preacher from the curia three or four months in advance, be observed. Finally, on April 30, 1864, a decree was issued, by which the parish priest, Philip, was assigned to another parish. The parish priest, upon receiving the decree, refused to accept the new parish; and he considered this transfer as an unjust removal and one contrary to the sacred canons. The Archbishop, however, persisting in the decree, assigned a period of approximately one month, under penalty of suspension, for the parish priest to assume the new parish, and also warned the same parish priest that he would be transferred to the designated parish whenever the Archbishop pleased. After no prudent means were spared by the Archbishop to induce the parish priest to comply, on July 18, 1864, suspension was imposed, adding in this decree that the cause of the suspension was public and notorious, and that the parish priest should understand that he would not be able to attend the sacred synaxis without experiencing rejection: this conclusion being considered as an interdict from attending the sacred synaxis. Nevertheless, these words were not uttered by the Archbishop as if adding a new penalty, as he declared through a pastoral letter of May 1, 1865, but so that the parish priest would understand that his public disobedience was what was preventing him from attending the sacred synaxis.

[*Latin ed. p. 16*]

16. TRANSLATION AND SUSPENSION. Therefore, the parish priest appealed to the Apostolic See, so that, after careful consideration of the matters, he might be absolved from the censures, released from the penalties, and the parish charge restored to him. This same parish priest com-

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municated his appeal through a certain book printed by order, but not yet published. After prayers offered to the Archbishop for information and a vote, the Archbishop replied: "The true cause which led to the assignment of another parish to the aforementioned (Philip) was proven to be his ignorance in conducting and directing the pious pilgrimage in a manner consonant with the mind of Holy Church, because, on the occasion of the feast of the Blessed Virgin Mary, the gathering stirred up more worldly than religious sentiments." Indeed, I did not wish to proceed to the extreme measure of this course of action, unless after repeated paternal admonitions, and the rules for acting, which he considered of little importance. At approximately the same time, the Archbishop made known to the Most Holy Father his bitterness, that among his clergy, two priests, namely the aforementioned Livius and the parish priest Philip, were absent from the true spirit of the Church; the former by denigrating the episcopate and specifically the Archbishop, as if they were acting arbitrarily; the latter by opposing the authority and secretly spreading throughout the diocese, under the pretext of an appeal to the Holy See, a book entitled "Memoire a consulter," the substance and form of which were to be condemned. While these things were happening in France, the Holy Congregation urged the parish priest, who had come to Rome, to desist from the appeal and to submit to the Archbishop. The parish priest promised to do so; therefore, the Holy Congregation gave a letter of recommendation in his favor to the Archbishop. However, the parish priest did not behave before the Archbishop as he should have; nevertheless, the same Primate informed the parish priest that he would absolve him from the censures for the exercise of the sacred functions throughout the diocese, except for the parish from which he had been removed, and that another parish would be conferred upon him, provided that he would: 1° Reproach his own disobedience and the manner of acting, by which he had affirmed the removal as unjust and contrary to the sacred canons; 2° Reproach the book "Memoire a consulter" containing erroneous, rash, false, and injurious propositions concerning the Gallican episcopate and the Holy See regarding the discipline in France concerning the removability of parish priests.

[*Latin ed. p. 17*]

TRANSLATION AND SUSPENSION. 17. He could be compelled: 3.º to take care to recall and destroy copies of the same pamphlet which he had disseminated with the help of others. The parish priest replied that the present matter should be referred to the Arbitrators for settlement, and at the same time, he sent another pamphlet to the Archbishop, entitled "Supplement to the Memoir," in which, according to the judgment of the Curia, he had, in an insolent style and with deplorable expressions, asserted that the first pamphlet had been judged in Rome to be informed by a good spirit, that he had consented to the reconciliation proposed by the

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Sacred Congregation, so that the parish priest might remain in his original parish, and be able to erect a hospital there, and to use the services of the priest Livio, as he had done previously. The Archbishop, rejecting the proposed arbitration, warned the parish priest that, unless he used good dispositions of mind, within the designated time, both pamphlets would be condemned by the ecclesiastical authorities. However, the parish priest declared that he intended to pursue the appeal in Rome, and at the same time, he submitted a letter to the printers, entitled "Suit au supplément," which, according to the judgment of the Curia, contained expressions that were very regrettable and sharply condemned. Informing the Sacred Congregation of all these matters, and also fully submitting to the mandate of the Holy Father, he obtained a Rescript: His Holiness, having disapproved of the conduct of the aforementioned priest, especially because he feared that he would publish two pamphlets, one entitled "Memoire a consulter" and the other entitled "Supplement au Memoire a consulter," also ordered that a copy of the response, which had been given by the same Holiness on 5 October 1864 to the Bishop of Ebroicem in Gallus, should be sent to His Eminence, and also another response from His Holiness, Pope Gregory XVI, given by the Sacred Congregation of the Council on 5 May 1845 to the Bishop of Leodiensem in Belgio, concerning parish priests who can be removed, commonly called "Desservants muncupatos," so that you may know what the mind and opinion of the Apostolic See have been in such matters. However, the Most Holy Lord hopes that the priest (Philip) will, as soon as he learns of the responses of the Holy See through His Eminence, no longer persist in his obstinacy; rather, that through proper submission, which he promised to demonstrate upon his arrival in the city, he may obtain the paternal forgiveness of His Eminence, so that he may be restored to the celebration of the Mass. Acts, vol. IV, page XXXVII. 2.

[*Latin ed. p. 18*]

18. CONCERNING TRANSLATION AND SUSPENSION. After such a decree was announced to the Parish Priest by the Archbishop, the Parish Priest wrote a letter, full of submission, in which, specifically concerning two published pamphlets, he condemned whatever was found in them that displeased the Archbishop. He affirmed that he could not remain in the parish as Parish Priest, but nevertheless asserted that he could not be removed from that parish without endangering his reputation. Finally, he requested that he might remain in that parish, not as Parish Priest, but as a citizen or as a priest abandoned and forsaken, and from there celebrate Mass at the altar of the Blessed Virgin Mary. However, the Archbishop did not permit this, especially on account of the two pamphlets which had been condemned by the Holy See, and he also offered him another parish, demanding the observance of the conditions mentioned above. The Parish Priest did not respond to this letter; but when the errors contained in the

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book written by André were brought to his attention by the Archbishop, and included in the Index of Prohibited Books, the Parish Priest published two other pamphlets, in one of which, entitled "Double Replique," the Archbishop alleged that he had not correctly interpreted the meaning of the Apostolic Letters; in the other pamphlet, the Parish Priest interpreted the response of Gregory XVI to the Bishop of Lodève, a pamphlet which, in the judgment of the Curia, contained more offenses. In the meantime, the Archbishop died, and the Parish Priest again petitioned the Holy See, imploring justice during the pending dispute, and requesting permission to celebrate Mass. After hearing the report concerning the Archbishop, the Sacred Congregation wrote on July 15, 1867: "The petitioner should proceed with his own Ordinary, and follow his judgment, and, if necessary, appeal from him." However, the Parish Priest refused to accept the authority of the new Archbishop, and insisted that the matter be definitively settled by law in the Sacred Congregation, which the new Archbishop himself considered necessary. Therefore, in accordance with established procedure, the case was presented for juridical determination in the full Congregation.

A SYNOPTIC SUMMARY OF THE ARGUMENT.

DEFENSE OF THE PARISH PRIEST. The Parish Priest in the City appointed a Defender, who, with a brilliant speech, presented his case, the substance of which can be briefly summarized as follows:

[*Latin ed. p. 19*]

TRANSLATION AND REMOVAL. 19 At the beginning, the Advocate cited the opinion of Saint Augustine addressed to Bishop Ausilius, number 8. "Nor should you think that an unjust disturbance cannot affect us, because we are Bishops; but rather, let us consider that we live most dangerously amidst the snares of temptation, because we are men." And in the book *De Vera Religione*, chapter 6, he stated that Augustine lamented the censure inflicted upon a certain good presbyter, and said: "There are more examples of this than one can believe." However, having admitted the exception in Gallia, where most and almost all parishes are removable, contrary to the common discipline of the Church, he maintained that the laws regarding removability must be observed, which are prescribed by common law. Among these laws, concerning the removal of so-called vicars, or removable benefices, it is required that there be a just and legitimate cause, for which it should appear that at least the judgment of a good man intervened in the removal, as Lotter states in *De Re Beneficiaria*, I, question 33, number 31 and following; and others state it similarly, as Giraldi does in the annotations to Barbosa *De Officiis Parochi*, page 341. "Although removable pastors may be removed as often as necessary, it must be noted that, in fact, they should not be removed without a legitimate

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cause" (Sacred Congregation of Councils, July 11, 1628; Sacred Congregation of Bishops, in Sulmona, May 24, 1645, and May 16, 1653, and elsewhere on several occasions). Regular clergy, nevertheless, can also be removed at the will of their Superiors and of the Ordinary, even without a cause. Therefore, a Bishop can decree that removable pastors, who are appointed by laymen or a college or a lay society, cannot be removed without their license and authority (Rota, decision 53, number 20, before Peutinger; Cardinal De Luca, *De Beneficiis*, discussion 80, number 20). All removable curates can be removed at the discretion of the diocesan Bishop (chapter 1, *De Capellis*); but they should not be removed except for a reasonable and just cause. For even in this, consideration must be given to justice, and the honor of those to be removed must be considered. However, the Bishop is not required to allege the causes of removal, nor are those who nominate them (Sacred Congregation of Councils, in Camerino, September 18, 1627). Furthermore, he demonstrated several examples indicating this, taken from the practice of the Sacred Congregations (2), and specifically, with regard to Gallia, (1) See Constitution of Benedict XIV, which I cited in Volume III, page 454. (2) These examples were cited in Volume III, page 511 and following.

[*Latin ed. p. 20*]

20. OF TRANSLATION AND SUSPENSION. The Cardinal Prefect of the Holy Congregation wrote a letter to the Bishop of Ebroic on the 5th of October, 1864, in which, by order of the Most Holy, the work of the Priest Dagomer was condemned with these words: "It is commanded that the work written by the Priest Dagomer, and published, which is entitled 'Rehabilitation of the Parish Priest,' be condemned, both because the aforementioned Priest did not even observe the diocesan laws and the decrees of the provincial council of Rouen in its publication, and because he feared to accuse Bishops, as if Bishops are not accustomed to transfer, without probable cause, Parish Priests, whom the common people call 'Desservants,' with prudence. Finally, because he has taken sides in a matter reserved to the Holy See." Furthermore, he cited from the response of Gregory X, "Vt," which was issued in 1845 by the Holy Congregation of Councils, after being consulted by the Bishop of Liège, who had explained: "Bishops are accustomed to use their authority to recall or transfer Rectors not frequently, and only prudently and paternally." However, the Orator maintained that the necessity of a cause existed, not only in the removal and deposition, but also in the translation, which is done to the detriment of the Parish Priest; for, as Paris teaches in *De Résignât. Benef.* I, 3, question 18, number 2, "no one is compelled" to exchange a benefice that he holds... and no one "is transferred unwillingly from one church to another, as was decreed in the Council of Constance." This, he showed, was the case in France, and in the province of Reims, when, in the provincial synod of Reims held in 1849,

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under title 17, chapter 3, concerning Appeals, it is written: "The same must be said of the recall of Vicars, who among us are all temporary; and of those Priests who are Rectors of souls who can be removed; although, indeed, they ought not to be recalled by the Bishop, nor transferred to another Parish unless for a just cause." And this also appeared from two subsequent responses of the Holy See, in which the same reasoning is given, whether concerning removal or translation. The Orator further demonstrated that a cause is all the more necessary, the more the translation or removal is to the detriment of the honor of the one who is removed or transferred, as Cardinal de Luca teaches in *Discipline*, 97, on Benefices, number 11 and following, in which the Authors agree. And such a cause should not be in the mind of those who are removing someone; for in a superior, nothing can be lacking in the reason for removing.

[*Latin ed. p. 21*]

TRANSLATION AND SUSPENSION. 21. Reason: but a real cause is required, and it must be proven and recognized as sufficient by the judgment of the judge, according to the common laws regarding removal, Pignatel, vol. 1, Consult. 133, no. 19 and following, and s. Rota throughout. After these matters, the Advocate proceeded to refute the reasons for which the Parish Priest had been removed: the first was that he had chosen a certain priest, Livius, to give a sermon, who was alleged to lack both sacred knowledge and prudence. To this, the Advocate responded that, if this were true, it could provide grounds for some canonical censure, but not for removal; moreover, Livius had long since been approved by the Ordinary; and it was not forbidden to the Parish Priest to choose a preacher from among those who had been approved, Ferraris, Bibliotheca, verb. Parochus, art. 2, no. 8. But finally, the Parish Priest had revoked the invitation to Livius to preach, given at a useful time, after the prohibition of the Curia. The second reason for the removal was said to be a lack of suitability to govern the parish: to this, the Advocate responded that such a defect was excluded from the very ministry of the parish priest, which, for a period of thirty years, he had exercised, earning the highest praise from the Curia itself; and this praise was testified to by countless and distinguished men, who spoke in the highest terms both regarding the care of souls and regarding the pilgrimage, which had previously been almost unknown, and that Parish Priest Philip had promoted it with such zeal that now there was an attendance of approximately fifty thousand pilgrims; therefore, he concluded, since there was absolutely no reason for the removal, the Curia had vainly sought to find it in the complaints and attempts made by the Parish Priest to remove false accusations against himself. However, having made a distinction regarding the question of translation, the Advocate argued that the suspension of the Parish Priest should be revoked: for this, since it is a very serious penalty, should not be imposed without a serious fault,

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Cap. 4 de Iudic, and Benedict XIV, de Syn. dioec., lib. 10, c. 1, no. 3. But the Curia had not designated any fault other than disobedience and resistance to the translation, and the letter of the Parish Priest, in which he wrote that the translation was unjust and contrary to the sacred canons: but if it is sometimes permissible not to obey, Reiffenst., Z. 1, Decret, tit. 33, no. 21, then it was not unlawful for the Parish Priest to reject the translation, which would harm his position and his...

[*Latin ed. p. 22*]

22. OF TRANSLATION AND SUSPENSION. Honor: and the Holy Congregation of the Council in Neritonen, on December 22, 1860, declared that no suspension had been imposed by the Bishop, due to a protestation made by certain Canons who considered themselves to have been injured in their rights by a certain decree of the Bishop. However, the Advocate maintained that the cause of the suspension, namely disobedience, had ceased in the present circumstances, since no one can be forced to accept any benefice. Furthermore, if the parish priest calls the translation unjust and contrary to the canons, he has done nothing other than to indicate the reason for his appeal, which we see happening daily in legal matters. Finally, the Advocate presented certain arguments regarding the prohibition of access to the Holy Sacrifice, about which it is unnecessary to speak, since neither the Archbishop considered that prohibition to have been in effect.

THOSE ARGUMENTS WHICH WERE PRESENTED FROM THE OFFICE OF THE COURT, IN FAVOR. It was noted at the beginning that, if the subsidiary churches in Gallus were to be compared with parochial vicars and removable chaplains, as the Advocate had done, it would not be difficult to cite several authors of outstanding canonical doctrine who maintain that it is not necessary for legitimately removing rectors, that there be such vicars and chaplains. And the following were named: Fagnanus in Cap. ad Monasterium, de statu Monachor. n. 23; Reiffenst. Ius. Can. lit. de Praeb. n. 45; Laurent. For. Benef. p. 1 q. 72; Card. De Luca, cited in opposition, disc. 97 n. 6, etc. It was said that Pyrrus Corradus gave an explanation of this opinion in Prax. Benef. lib. 1 c. 6 n. 276, with these words: "The word 'at will,' as its meaning shows, is taken for will; and the word 'will' imports a free and absolute will, and not a regulated one, and therefore, he who has the power to remove is not bound by the observance of the law, and thus he can remove the chaplain without cause." (1) However, it was noted that in the present case, it remained to be determined whether the subsidiary churches of Gallus could be considered as manual benefices, since these manual benefices can be said to be perpetual in some sense; whereas, on the contrary, the rectories of subsidiary churches in Gallus are usually considered as an office, which is exercised...

(1) This reason, which Corradus gives, seems to me to be very weak, if it is understood in such a way that it excludes any cause; regarding this

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matter, I recall what I discussed in Appendix X, Volume III, page 506 and following.

[*Latin ed. p. 23*]

TRANSLATION AND SUSPENSION. It is permitted, according to the concession of the Bishops, according to the words used by the Council of Avignon, Session II, chapter 1; the Council of Reims, year 1849; the Council of Bordeaux, title 9, chapter 10; the Council of Toulouse, and others, which were held around the same time: but these have been valid in Gallus, not according to any principle of common law, which is usually invoked in the case of Vicars and Curates, but because of entirely special circumstances of place and time. Therefore, since the method of administering such parishes has taken shape according to the peculiar conditions of place and time, it cannot be seen to proceed according to the principles of common law, except in that part which may perhaps be found to be in accordance with common law. The principles which ought to be valid in such a situation seem to be derived from two responses of the Holy See, which were presented in the case of the Parish Priest Orator, namely, from the response given in Ebroicum, in which the work of the Priest Dagomer was condemned, because he feared to accuse the Bishops, and as if the Bishops were accustomed to remove, or rather, to transfer Parish Priests, commonly called "Desservants," without a probable cause, and from the exposition made by Gregory XVI in 1845 by the Bishop of Leodiensi, who asserted: "The Bishops rarely and only prudently and paternally use their authority to recall and transfer these Rectors." From these, it seems to be deduced that a prudent and paternal manner of acting is sufficient to remove and transfer Parish Priests, called "Desservants," which manner of acting, according to the opinion of many authors, would not be sufficient in the case of benefices with endowments. This manner of acting was observed to be practiced in Gallus, according to the testimony of many Bishops, so that such Rectors are removed after all circumstances have been seriously considered, from which examination it appears that the removal of one Rector or another is necessary or useful for the spiritual good of the Rector, or of the parish, whether that from which he is removed, or that to which he is transferred. Therefore, with these things established, according to the discipline prevailing in Gallus, the removal or transfer is not to be considered as a deprivation, which has the nature of a punishment, but as an act of prudent governance, as taught by Laurentius in *Formularium Beneficiorum*, part 1, question 7, number 4. Since, therefore, the removal is made in this way, it was concluded that the Parish Priest claiming cannot have a case, unless he shows that the Ordinary acted out of hatred or malice, or to the detriment

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of the Church.

[*Latin ed. p. 24*]

24. TRANSLATIONIS ET SUSPENSIONIS. As taught by Cardinal de Lue, in the aforementioned work, whenever this [reason for translation or suspension] is not demonstrated, it must be presumed that the Bishop acted with sound judgment, and that he is not required to render an account to his subordinates for the administration of the diocese, unless there is a serious impediment to the exercise of his jurisdiction. However, in the present matter, the removal of the parish priest was not done as a punishment to him, but for the greater benefit of the parish, as the Archbishop had repeatedly made clear to the parish priest in writing, assigning him a richer parish; for the Archbishop sought a priest more suitable for governing that parish, especially due to the excessive pilgrimages that were no longer conducive to piety. Furthermore, considering the special manner of administering parishes that prevails in Gallus, it cannot be said that there was not a sufficient reason for removing the parish priest. For, as Berardi and others teach in the Appendix on Improper Benefices, "it is not necessarily the case that the same reasons are required to remove a chaplain as are required to remove a beneficiary," but "that at least certain reasons, even if less serious, must be present." In fact, it has been established for many years that the Archbishop had ordered the parish priest to expand the church, restore the cemetery, and build a parish house. It is also established that, in order to prevent probable confusion and disturbance among the nearly fifty thousand people who resided in that small town, and who came for other reasons as well as for religious purposes, the Archbishop, first by letters, and then by a specific and detailed order, forbade the parish priest from announcing the customary novena prayers of the pilgrimage, and from inviting a preacher without his special authorization; specifically, he forbade the parish priest from inviting the priest Livius, who was generally considered an unsuitable advisor to the parish priest and the author of works that defended doctrines already condemned by the Holy See in the work of the priest Dagomer, etc. However, the parish priest did not comply with these injunctions, even though generous offerings were being made for frivolous ornaments and pomp, and he persisted in holding the customary ceremonies.

[*Latin ed. p. 25*]

TRANSLATION AND SUSPENSION. The collection, which was made in the month of September, and the greater effort to solemnly celebrate missions in the month of May. Regarding the cause for the suspension, it was noted that it was not based on the rejection of the parish by the Archbishop to the same pastor, but on the obstinacy of the same pastor, who, although removed from his parish by decree, nevertheless persisted

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in calling himself and claiming to be the pastor of the same parish, as if it were an institution established in perpetuity, and who invoked the Council of Trident. Furthermore, there was public disobedience, in which he refused to admit a successor to the parish, from which he refused to withdraw. There was also a scandal exhibited to the faithful, by which the danger of division among the parishioners was justly feared. Similarly, in similar circumstances in Bergamo. The irregularity of the suspension was debated in the Sacred Congregation of the Council on December 5, 1863, with the following question: "Whether and how do the decrees of the bishop apply in this case?" The Sacred Congregation responded: "Affirmatively in all respects." With these and other arguments, supported by a comprehensive series of documents, the following question was to be resolved: "Whether and how do the dispositions of the Archbishop (N.) to the priest (Philip) through letters of April 8 and July 18, 1864, apply in this case?" RESOLUTION. After discussion by the Bishops and Regulars on July 3, 1868, the Sacred Congregation decided: "Affirmatively in all respects, regarding the translation and suspension; but regarding the Interdict, it is to be maintained according to the declaration made by the Most Reverend Archbishop (N.) in a letter of May 1, 1865." FROM WHICH IT MAY BE GATHERED: I. The Sacred Congregation judged that the translation, which indeed differs greatly from a removal based on punishment (2). (1) This case was mentioned in V. II, p. 276. (2) In the present case, sufficient causes for the translation were judged to exist, as can be seen from the response of the Sacred Congregation; however, it does not appear that sufficient causes were judged to exist for an absolute removal, that is, for the dismissal of the pastor from the subsidiary parish, so that he would not have another subsidiary parish, perhaps even a more prosperous one. And indeed, according to the Archbishop's opinion, the principal cause for which the translation was decreed was the condition and nature of a large gathering of people, which was called a "peregrination," and which gathering was profane.

[*Latin ed. p. 26*]

26. ON TRANSLATION AND SUSPENSION. II. The Holy See, in a certain sense, is aware of a custom prevalent in Gallus, whereby, as is said, thirty thousand parish churches are dependent on the prudent administration of their respective bishops, and these pastors are guided by the laws concerning perpetuity and canonical form, according to common discipline. III. Therefore, it is rash for all those who condemn this custom as intolerable and disapproved of by the holy canons. IV. It cannot be said that something is intolerable and disapproved of by the holy canons, simply because, by a very widespread custom, it prevails in some Catholic province, when the Holy See, fully aware of it, has refrained from a definitive judgment (1). This practice, which was done for the sake of amusement and

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public enjoyment by many, was not done for the sake of religion: and the pastor of that place, although zealous, was not deemed suitable to direct that great pilgrimage, and it was necessary for him, in the state in which he found himself, to arouse vigilance and episcopal intervention. However, this lack of suitability, and also a certain stubbornness in his opinion, provided a legitimate reason, according to the custom of Gallus, to transfer the parish church to another location; and it cannot be said that the Archbishop acted without a probable cause. V. However, the events that occurred after the judgment, which could have been the cause of some canonical censure, were in fact the cause of the suspension, but they did not fall within the cause of the translation. (!) Not long after the Council of Trent, the phrase "No custom is admitted against the Council of Trent" began to gain ground among the canonists. This phrase, which did not have a solid foundation from the beginning, was rightly accepted by the Holy Congregation of the Council: I said it did not have a solid foundation, because this general clause was neither placed by the Fathers of the Council of Trent in the Decrees, nor explicitly by any Constitution of the Roman Pontiff. Nevertheless, it has been frequently repeated by various authors until our time: nevertheless, this phrase, which, after some new solemn law, we are forced to understand as implied, gradually loses its truth over the centuries: and in reality, we now see many customs that have survived against the Council of Trent, which are not considered reasonable, especially in relation to local circumstances. VI. No one should be surprised, when it comes to laws of discipline, that a custom can grow stronger over time, even against the most solemn laws, if one considers all the laws of discipline as having, by their very nature, either an easier or a more difficult ability to admit contrary customs; and a clause, if it is added to a law, excluding any contrary custom in the future, is nothing other than a law of discipline, which by its very nature can admit a contrary custom; therefore, where this prevails, it can be abrogated: and we have solemn examples of this in the very Decretals; therefore, the value of this clause, whenever it is added, cannot be other than to make the new law more difficult to follow, and to arouse special vigilance from the authority, so that a contrary custom does not take root. For as long as authority resists, a custom cannot be introduced.

[*Latin ed. p. 27*]

TRANSLATION AND SUSPENSION. 27. It cannot be deduced from the present case that the Holy Congregation has admitted a principle by which, as some say, Parishes in Gaul can be removed without any cause; since a not insignificant reason, requested by proper authority, has been present, which would suggest the removal of a Parish priest. 6. Finally, it should be understood that the obstinacy of a Parish priest against the rightful disposition of the Bishop can provide a cause for legitimate suspension.

MONTIS FRUMENTARII. On May 15, 1868, a pious Society, under the

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title of Saint Mary, had requested from the Holy Congregation of Bishops and Regular Canons the faculty to open a grain store (Montis Frumentarii), having also presented the offerings of the confreres; in such a way that to the villagers who sought grain for sowing, a measure of grain would be lent without the addition of a surcharge (in Italian, *rasa*), and they would be obliged to return the same measure, increased by the surcharge, after the harvest or reaping. This surcharge, however, should be used both for the benefit of the functions of the same Society, and as compensation for the expenses required for the maintenance of the grain store; and the grain store itself should be made available for the benefit of the villagers, so that they would not be forced to resort to usurers.

Summary of the facts. I observed that the members were being required to pay a surcharge on the grain beyond the amount lent, because the grain harvested is often richer due to the humidity, compared to the grain that has been dried after storage. The Bishop of that time, when asked about granting this faculty, responded; moreover, considering the circumstances, very little profit would remain for the Society, and that it would be used for the increase of divine worship. At that time, in the official records, it was considered that such establishments, the grain stores as well as the pawnshops of Lodi, are worthy of praise; that the only difficulty that could arise is from usury; and that the Constitution of Leo X, among many others, of May 4, 1515, from the Council of the Lateran Palace, in which Pope...

[*Latin ed. p. 28*]

28. OF THE MOUNT OF GRAIN. The Prefect, in order to resolve questions concerning the usury of the Mounts of Piety, defined: "Mounts of Piety are institutions established by republics, and which have thus far been approved and confirmed by the authority of the Apostolic See, in which, for their expenses and compensation, a moderate sum is received, solely for the expenses of the ministers and other things necessary for their maintenance, and solely for their compensation, without any profit accruing to the Mounts themselves; and this does not present the appearance of evil, nor does it provide an incentive to sin, nor is it to be considered improper, but rather it ought to be considered meritorious, and ought to be praised and approved; such a loan, etc." It was also noted that the Holy Congregation firmly maintained that no increase, beyond what is necessary for expenses, can be received, as in Ferentino, on September 6, 1604; and that the usury should not exceed the proportion of three for every hundred, as in Viglaven, on January 19, 1607; or, at most, not exceed four for every hundred, as in Derltonen, on August 11, 1625, or in Cotronen, on April 28, 1599. On this matter, one may consult Pignatelli, volume 4, consultation 153, under number 4; Angelus Lucidi, in his recent work on the Sacred Canons, volume 2, page 525 and following; Monacelli, and others. Furthermore, a certain Resolution concerning the Mount of Grain in Ferentino,

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dated December 20, 1838, was also brought up in that Consultation. This concerned a certain Mount of Grain established in a certain village, the memory of whose establishment had completely faded; the usury received was approximately ten for every hundred, which usury, after deducting necessary expenses, was allocated to pious uses; specifically, for the maintenance of the church, which was located in that very poor village, and also for sustaining the poor through charitable distribution of food. The question raised was: "Is it permissible to continue the increase, which has long been received, in order to allocate it to these pious uses? Or rather, should the amount be reduced to what is sufficient for the expenses and maintenance of the Mount itself?" The Holy Congregation responded: "No, to the first part; yes, to the second part, and with good reason." The thought of the Holy Congregation, translated into Latin, was as follows: "Let it remain firm that no increase should be demanded above the loan given, except that which is necessary for the expenses and maintenance of the Mount; so that the Bishop, after making a calculation, should determine the rate to be paid above the principal for this purpose. And regarding what has been customarily received above this portion..."

[*Latin ed. p. 29*]

MONTIS FRUMENTARII. 29 "It was perceived that, for pious purposes, and especially for the maintenance of the temple and to alleviate the hunger of the poor as much as possible each year, the Bishop could permit that this custom be maintained, provided that a register be established, in which, in distinct sections, the agreed-upon portions would be noted, those pertaining to the Montis Frumentarii, and those for other uses, so that it could be known what is given in the name of justice, and what is received as a free and pious offering. The Bishop will see to it that the people are informed of this matter with prudent reason, either through the intervention of a notary or in another manner, as the Bishop prudently judges. After these matters were discussed, the following question was raised: "Whether and how the establishment of the Montis Frumentarii should be approved in this case?" The Sacred Congregation, on April 19, 1844, responded: "Affirmatively, according to the first part of the opinion given on December 20, 1838, concerning the Montis Frumentarii in Ferentino; and, in the meantime, for a period of ten years, it is permitted to collect one *cuppa* for each *stadion* harvested, but without any application of the profit derived from it to any other use." This resolution, with the exception of a few years, was forgotten, and the custom of giving a measure of grain without a lid, and of receiving a measure with a lid, continued, until a new Bishop, noticing this during a pastoral visitation, reminded the same members. The members, appealing to the Holy See, requested that the defects committed against the Rescript be remedied with regard to the past, and that consideration be given to the future. They added that the small increase that would go to the profit of

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the Montis Frumentarii was due to reasons already explained above, that the grain, due to its humidity, was heavier and larger in volume than that which was lent out for sowing; that the expenses to be sustained for the preservation of the Montis Frumentarii were not insignificant; and that it often happened that those who had borrowed could not return what they had received. They added that the Montis Frumentarii, if it were to continue, had been preserved thanks to that increase in collection; and that the same increase would not be felt by the poor, etc. The Bishop, when asked, confirmed these points and further stated that the measure of grain, without a lid, which was lent out by the Montis Frumentarii in Vernon, weighed sixty pounds, while the measure with a lid weighed three...

[*Latin ed. p. 30*]

CONCERNING THE MOUNT OF GRAIN. In the month of August, it was restored, weighing seventy-five pounds; and it was determined to provide for the distribution of aid as far as the future is concerned, and to maintain the aforementioned increase as far as the past is concerned, noting at the same time that the surplus profit, exceeding what was intended by the founders, had been allocated to the upkeep of the titular church, although the members denied this in their prayers.

OBSERVATIONS MADE AT THE NEW CONSULTATION. According to the Bishop's report, the increase consisted of twenty-five units for every hundred; however, a greater weight should be maintained, which the grain would have after being collected; this weight diminishes with conservation; especially if it concerns Sicilian grain. Therefore, it was appropriately recalled the Constitution of Paul V, of burdensome memory, dated February 5, 1615, in which the Supreme Pontiff, having learned that the funds of the Pious Mounts which existed in the Pontifical Territory, intended for lending to the poor, were being converted to other uses and were diminishing daily, prescribed to the Presidents of these Mounts that they should not presume, without our and the Apostolic See's permission, under any pretext or guise, to dispose of any funds belonging to said Mounts, whether of the principal sum originally assigned to them, or of any increase subsequently acquired, for any purpose other than the use of the poor, according to the manner and form prescribed in the erection of said Mounts, with the obligation of returning them within a certain time. Furthermore, it was noted that the Holy Congregation of the Council should encourage the observance of such a Constitution when examining reports on the state of the churches. More recent resolutions were also brought to mind, namely, that of the Mount of Grain of August 9, 1844, in which the administrator of a certain parish reported to the Holy Congregation that he had left eight sacks of grain for the Bishop and his predecessors to form a Mount for the poor, on the condition that borrowers would return one cup for each *stadium*, which constituted a proportion of six for every hundred between what was

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given and what was received; from this increase, it had resulted that eight sacks given for the fund had become ten and eight; he therefore requested that permission be granted to form the Mount with ten and eight sacks, and to increase it up to thirty.

[*Latin ed. p. 31*]

MONTIS FRUMENTARII. 31 sacks, and then the revenues should be directed to the benefit of the parish, which had freely granted the use of the house in which the grain was stored. Regarding the questions proposed: I. "Whether absolution and remission should be granted for the increase hitherto received." II. "Whether and in what way the Montis Frumentarii [Grain Bank] should be approved in this case." The Sacred Congregation responded: To I. Affirmative. To II. Affirmative, and with the understanding: "Write to the Bishop so that he may ensure that the interest received does not exceed the sum of 4 scudi for each hundred [of units] and per year, taking into account the circumstances of the locality for a period of ten years." The proceedings concerning the Montis Frumentarii of July 30, 1852. The municipality of Oppido had established a Montis Frumentarii with an interest of twenty for each hundred. The situation had become such that, from these increases, two other Montis could be established: one a Montis Pietatis [Charity Fund] in money, and the other a Montis Frumentarii in grain. However, when the Bishop, during the Visitation, observed that the interest was excessively high, he forbade the collection of any interest without the permission of the Apostolic See. He recommended that the prayers proposed to the Holy See be approved, so that absolution might be granted with regard to the past, and so that the possibility of continuing for ten years in the established custom might be allowed, until the sum reached two hundred gold coins, and then the increase should be reduced to almost half. Therefore, the following questions were proposed: I. "Whether and in what way absolution should be granted for the existing increases in the Montis Frumentarii, and in the Montis grani siculi [another type of grain bank], and in the Montis pietatis in Oppido." II. "Whether and in what way, and for how long, it should be permitted to continue this practice in this case." The Sacred Congregation responded: To I and II, Affirmative, according to the opinion of the Bishop, with the instruction as stated in the proceedings concerning the Montis Frumentarii of December 20, 1838, having consulted with the Most Holy Father. With these matters written down officially, the questions proposed must be resolved. I. "Whether and in what way absolution should be granted in this case." II. "Whether, and what increase, and in what way, it may be permitted in the future in this case." ANSWER. The Bishop and the Regulars, having considered the matter on May 15, 1868, responded: To I. Affirmative, having consulted with the Most Holy Father. To II. Maintain the resolution of April 19, 1844, with

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a prolongation of ten years.

[*Latin ed. p. 32*]

32 OF THE GRAIN MOUNT. Indulgences are granted, observing in all respects the form and tenor of the agreement made with the Sacred Congregation. "After a report on the foregoing matters was presented to His Most Holy Father, Pope Pius IX, in an audience held on that same day by the Reverend Father Secretary, His Holiness approved and confirmed the resolution of the Sacred Congregation regarding the first question; concerning the second question, however, He ordered that it be so regulated that the increase be limited to a maximum of six percent per centennial and per year." FROM WHICH WE GATHER: I. Grain Mounts, also called "Mounts of Piety," which lend money or grain on loan, conceived out of Christian charity to protect the poor from usurers, cannot, under the title of a loan, receive anything above the principal (i). II. However, they can receive something above the principal under the title of expenses, as much as is sufficient for the preservation of the Mount and for covering its expenses. III. With the authority of the Holy See, it may be permitted for a time that the Mounts receive something more for other pious purposes, but in such a way that this receipt is clearly distinguished from a loan and is not considered usury derived from the loan. (i) Ferraris, in the *Aurea Bibliotheca Canonica* under the word "Mounts of Piety," recounts how these Mounts of Piety began to help the poor in the Christian republic. Indeed, the Mounts of Piety have been so highly recommended by the Apostolic See that they seem to be an essential part of the structure of any diocese. This is evident from the Consistorial Decrees describing the episcopal churches, in which it is customary to inquire and state whether a Mount of Piety exists, as can be seen in the brief descriptions of churches that I have often cited in these publications from the Consistorial Decrees. If such Mounts were useful in the past to protect the poor, especially from Jewish usurers, it is easily seen how much benefit they provide in the present time. For in the present time, money that is not used is no longer usually kept idle, but rather, merchants are encouraged to use it for business transactions, and thus, contracts of association are constantly formed, either tacitly or expressly, which contracts must not be confused with a contract of loan. In a contract of association, those who provide the money participate as partners with those who receive the money to conduct business, so that they have the right to receive a share of the profits from the business conducted: but to compensate for the troubles of the division, a fixed portion is returned to the partners who provided the money, previously determined, which can be very large without being illicit usury, since it is not given as a loan, but by the right of the contract of association: but in such a way that the partners who provide money in this way, by virtue of the contract, do not have the

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right to receive the money given if the business fails.

[*Latin ed. p. 33*]

33 FROM S., THE CONGREGATION OF THE COUNCIL. REGARDING THE PROVISION. June 13, 1868. Again and again, questions arise, the subject matter of which, although seemingly of little importance when considered in its quantity, yet, if they must be defined within the framework of justice, are often complex and difficult: this is the nature of the present question. Summary of the facts. In the diocese of N., there exists a cathedral chapter, which currently consists of only twenty-one canons, whereas formerly it consisted of five canons and two dignitaries. These canons of the old foundation, together with said dignitaries, namely the archdeacon and the archpriest, have a separate table from the others, and administer it jointly. The revenues derived from this table are almost entirely variable; they depend on the collection of agricultural produce, namely grain, and especially *musti*. Furthermore, the chapter has other obligations; it must annually give various portions of *musti* to certain vicars, to the church singers, and to others who serve. The archdeacon, who is the highest dignity of this ancient chapter, in addition to other emoluments above the other canons, has, from ancient times, received eight *cados* of *musti* by a special title. For although the division of the remaining agricultural produce is equal among the canons and the archdeacon, nevertheless, from ancient times, certain portions have been given to the archdeacon above the others, some of grain, and others of *musti*. But now, since these agreements of association are made continuously and with the greatest ease, it happens that those who do not provide according to Christian charity find it difficult to lend money to the poor without some considerable profit; and this profit can be obtained from the loan by reason of the loss of profit, which, as is almost always said today, is derived from said administration (Jeta, Vol. IV, section XXXVII). Therefore, if previously, charitable institutions were useful in protecting the poor from usurers, now it seems absolutely necessary that the poor may find money, or something else, to return without a heavy increase. 8

[*Latin ed. p. 34*]

34. OF PROVISIONS. Of money, and also of must: these portions he received from certain special titles, especially for having a servant, or for having a second servant, in which was considered the dignity of the first chapter. Examining older documents, it is often read that eight *cados* of must were to be given to the Archdeacon for the servant: but from the year 1810 and onwards, this portion of *cados* of must is read as unchanged, either in quantity or in title; for in the administrative documents from that year, it is constantly recorded, for the Archdeacon, ten *cados* of must by title. However, how this variation occurred is entirely unknown. In the year

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1863, due to a near-complete lack of wine, the Canons gave the Archdeacon only three *cados* of must, which they purchased with money, as they were forced to purchase the other *cados* to be given to the vicars and other servants. But considering that the Canons were not obligated to give the Archdeacon this portion in these circumstances, they denied the remaining seven *cados* of must, and even demanded back the three *cados* as having been given improperly: on the contrary, the Archdeacon maintained that he was owed the full ten *cados*, and the question was brought before the Sacred Congregation of the Council. A concise account of the arguments. THE REASONS WHICH THE ARCHDEACON PRESENTED. —He initially stated that such a portion was part of certain revenues belonging to the first chapter and the prebend, since the other revenues varied from year to year. And he sought to prove this from the fact that in the chapter records, in the inventories, and in the acts of the sacred visitation, such a provision was included among the burdens of the Chapter Table, to which the Chapter was obligated to satisfy annually, before the division: for the Chapter only had for the annual division, what remained after deducting the burdens. He did not add that, in the year 1863, not so much must had been received from the lands of the common table as was sufficient to fulfill the burdens, for if must had been purchased with the money of the common table for the other assignees, that is, the vicars and servants, there was no serious reason why it should not be purchased for the first chapter.

[*Latin ed. p. 35*]

RENDITION. 33 The Canons, however, maintained that the alteration, which arose in the year 1810, was improper, since from that time forward, not eight *cadi* of must were given, but ten, and indeed, not any longer for the servant, but as a *anteportam*, as if it could be deduced from this that the Archdeacon was to receive these ten *cadi* of must so many times as, after fulfilling the other obligations, there remained at least as much must as was sufficient to constitute said *anteportam* by the favor of himself. For he asserted that the meaning attributed to this term was false, since this term absolutely indicated that a portion was to be deducted from the entire income of the Chapter, and not merely from the must, by dividing it. Furthermore, the Archdeacon argued that this alteration could not have been legitimately introduced under any title, and he inquired about contracts by which this rendition could be assimilated; and finally, he concluded that this rendition could be assimilated to Tithes, implying that in the absence of grapes, the tenth *cadus* of must should be supplemented in money.

REASONS PRESENTED BY THE CANONS. On the contrary, the Canons maintained that ten *cadi* of must in the year 1863 were not due, considering the aforementioned alteration in the administration, which had been peacefully maintained and was in force. Before the alteration,

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the must was given to the Archdeacon for the servant; therefore, it did not constitute a fixed assignment inherent to the Prebend. For if the Chapter were reluctant, the Archdeacon would not have had a servant, and undoubtedly would not have received the eight *cadi* of must. Nor did the rendition constitute an assignment of the Archdiaconal Prebend after the alteration, since this portion of must, which is no longer given for the servant according to the administration records, is nothing other than a fixed emolument of must to be given to him by the Canons before the division of the must; therefore, they concluded that it was to be given if the must was sufficient, and on the contrary, denied if the must was lacking; and that the term *anteportam* clearly signifies this, so that the term cannot be understood absolutely, with respect to all the fruits of the Chapter, but relatively, with respect only to those fruits of which the nature is to give a portion, that is, with respect to the collected must. Finally, I observed that the doctrine of Tithes invoked by the Archdeacon himself was refuted and supported by the Chapter: because...

[*Latin ed. p. 36*]

36. OF PAYMENT. The tithe is paid only from the fruits collected, according to Chapter 3 concerning Tithes, Passerin in book 3, article 3, number 4; Rota cor. Olivatio, decree 716, number 7. A doubt was raised: "Whether and in what manner there is a place for the payment of ten cados [a unit of measure] with the changed favor of the Archdeacon in this case." RESOLUTION. — The Sacred Congregation decided on June 13, 1868, to respond: negatively regarding the seven cados not paid in the year 1863. FROM WHICH IT CAN BE GATHERED: I. A variation in the distribution of chapter goods, induced and peacefully maintained for a long time, has a non-irrational force of law, even if the title by which it was induced is unknown. II. If, in a common division to be made, a certain portion is to be set aside and given to a partner in the division from the fruits collected, it is not to be given in its entirety if the fruits collected are not sufficient to cover that portion (1). III. In the present case, it has sufficiently been established that the aforementioned portion was to be set aside and given to the Archdeacon only from the must collected. OF A DONATION FOR A PIOUS CAUSE. On May 2, 1868. Summary of the facts. A pious Countess, devoted to Saint Giles, the Abbot, and patron of the city, donated two cows and their calves to increase the festive solemnity of the same patron, and also stipulated that these cows and calves should be kept for 12 years to increase and form a certain dowry, which would provide perpetual fruit. These matters have a great affinity with those raised in the present question concerning Tithes, as they are discussed in the Congregation of Bishops and Regulars, Volume

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III.

[*Latin ed. p. 37*]

A DONATION FOR A PIOUS CAUSE. 37 It was possible to grant a sum to be spent at the discretion of the Deputies, whom the citizens were accustomed to elect each year for the celebration of the feast of St. Giles: and these same Deputies would administer the substance itself, rendering an account each year to the new Deputies succeeding them. Indeed, he wished and decreed that there should be four other Deputies, two chosen by the Bishop and two by the Magistracy, who would have the duty, after the administration of each year, of examining and ascertaining matters, with other precautions added. After twelve years, at a meeting of the Deputies concerning the feast, before the Vicar General, it was noted that some part of the disposition of the pious Countess needed to be changed; and at that meeting, a special election was made of four men, who would administer the substance of the pious donation. The following day, this gathering of the four men decided that they should pray that the Most Holy [Father] would deign to revoke the will of the pious donor, so that the administration of the funds would be held by them every six years, and the proceeds would be distributed, not for the feast of St. Giles, but to supplement the festive adornments of the cathedral church, adding that the feast of St. Giles could conveniently be celebrated each year with alms from the faithful. But knowing this intention, the Deputies were entirely opposed to this. How such a matter concluded is not clearly apparent; however, it is certain that this gathering of the four men persevered from the year 1817 until the years 1854, when the citizens brought complaints against the Bishop, because the disposition of the pious testatrix was not being observed; but the matter was settled at that time. In the year 1866, the citizens, again raising the question, and with prayers addressed to the Holy See, requested that the revenues be distributed at the discretion of the Deputies of the feast, as the pious donor had stipulated. Therefore, after hearing both sides, certain rights were deducted by the episcopal curia, which concerned the manner of administering the funds, a manner that, although different from that which the pious donor had established, the curia nevertheless maintained should be observed by prescription; other rights concerned the manner of distributing the revenues, which the curia did not wish to be spent on profane spectacles; for the curia stated that the revenues should not be spent on prizes for those running in the stadium or playing games with weapons, on expenses for fireworks, and so on.

[*Latin ed. p. 38*]

88. ON DONATIONS TO A PIOUS CAUSE. He considered that certain consolations did not accord with the religious sentiment of the donor towards St. Giles. However, on the contrary, the Municipality, adhering

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to a most firm principle, concluded that the will of the founders must be strictly observed, and that it could not, even for the better, be altered by the local Ordinaries, and that the disposition of the pious donor must be strictly maintained, both with regard to the manner of administering the funds, and with regard to the manner of distributing the revenues, which the donor had entrusted to the judgment of the representatives of the feast. However, the Municipality denied that, in the present case, prescription had validity with regard to the aforementioned manner of administration, both because continuous and uniform observance to the contrary had not been demonstrated, and because this observance, being based on precarious reasons, could not destroy the clear disposition of the donor. Based on these and other considerations, the matter was deemed doubtful: "Whether and how assent should be given to the requests of the Orators in this case." RESOLUTION. – The Sacred Congregation, having knowledge of the matter on May 2, 1868, decided: "The disposition of the donor must be strictly maintained." FROM WHICH IT IS UNDERSTOOD: I. That the will of the founders must be strictly observed. II. That it is not within the power of the Ordinaries to alter that same will for the better. III. That the manner of celebrating public feasts, which, after the proper performance of sacred rites, consists in providing, according to the character of the place, games and spectacles, in which the Christian people can participate without guilt, should not be reprehended (indeed, it should be recommended by its example).

[*Latin ed. p. 39*]

39. ALMS OF MISSES. July 18, 1867. Summary of prayers. The Archbishop of N. requested from the Sacred Congregation a solution to a doubt, which was as follows: "In the archdiocese of N., there exist many foundations for Masses, for which certain stipends have been established by the Ordinary. These Masses are not attached [to a specific benefice], but are assigned to certain priests by the Ordinary and by the founders or custodians of the churches, to be celebrated by them. It frequently happens that those to whom these Masses have been assigned in the aforementioned manner are prevented from celebrating them themselves, either because of funeral services to be held, or because of manual labor, which, given the particular circumstances, cannot be refused by the faithful, or for other legitimate reasons... The question is asked whether the aforementioned priests, if legitimately prevented from celebrating the Masses assigned to them in the manner described above, must hand over the celebration of these Masses to another priest, so that the stipend established by the foundation for the celebration of the Masses may be paid; or whether it is sufficient for the Ordinary to ensure that those Masses, which remain, can be safely retained by the priests to whom they have been assigned. And if the question is to be answered in the affirmative, I dare to request that I be graciously granted

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the faculty to grant to each priest a license, which would be contained in the other part of the question, if it should appear necessary."

NOTES FROM THE OFFICE. In order that what was certain might be distinguished from what was uncertain, it was observed that the Decree of the Sacred Congregation, promulgated on June 21, 1625, and confirmed by Urban VIII, which begins: "Since it often happens, in which among other things, it is said: Wishing to remove all damnable gain from the Church, it prohibits a priest who undertakes to celebrate a Mass with a certain alms, from assigning the same Mass to another, retaining a part of that same alms for himself." However, such a provision does not apply when dealing with Masses that are attached to benefices or properly called chaplaincies, as Innocent XII, Urban.

[*Latin ed. p. 40*]

40. OF ALMS FOR MISSES. Urban's Decree, confirmed by the Responsum of the Sacred Congregation, concerning a doubt: "Whether this Decree applies to benefices which are conferred in title; that is, whether the Rector of a benefice, who may celebrate Mass through another, is obligated to give to the priest celebrating the Mass a stipend proportionate to the revenues of the benefice?" To which the response was: "It does not apply, but it is sufficient that the Rector of a benefice, who may celebrate Mass through another, should give to the priest celebrating the Mass an alms, suitable according to the custom of the city or province, unless something else is stipulated in the foundation of the benefice." Furthermore, it appears certain, according to the opinion of the Doctors, that the Decree does not apply to chaplains, even those who are not collated, that is, those who are not conferred in title, and to purely lay chaplains, as is argued from the teaching of St. Alphonsus in book 6, treatise 3, on the Eucharist, number 321, where he refers to his own opinion and that of others. On the contrary, it is certain that Urban's Decree applies whenever manual Masses are discussed, so that it is not possible for a priest who has received a larger alms to be paid a smaller stipend by another (as Benedict XIV says in the Constitution *Quanta Cura*), even if the same priest celebrating the Mass and consenting has indicated that he has received a larger alms. However, the Doctors admit exceptions in cases in which a larger manual alms is given with a view to something other than the title, as taught by St. Alphonsus in the aforementioned place (1). With these observations in mind, it was noted that the entire question revolved around whether the Masses about which we are speaking should be considered as manual Masses. And it was noted that those foundations should be considered as a collection of manual Masses, when any title is lacking in them, distinct from the celebration, for the sake of which the dominion over the alms could be acquired; and in this lies the reason for the manual nature, when only an alms is given for the celebration. To some extent, the Resolution of the

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Sacred Congregation of April 15, 1745, seemed to be relevant, in which it was resolved that a removable chaplain may retain a portion of the stipend, provided that a certain income is established annually for the chaplaincy and is permanently assigned to the chaplain; otherwise, if a certain alms is given to this chaplain for each Mass celebrated. (1) These things can be recalled from Fol. III, page 555 and following.

[*Latin ed. p. 41*]

CHARITIES OF MISSES. 4-1 Having considered these and other points, in accordance with the teaching of St. Alphonsus, and of the theologians Pasqualis and Cardinal de Lugo, the following questions were presented to the Sacred Congregation.

RESPONSE. The Sacred Congregation, at its meeting held on July 18, 1868, responded as follows: According to what has been presented, the full stipend must be paid; regarding the requested permissions, it is not expedient to grant them.

FROM WHICH IT CAN BE GATHERED:

I. The solemn decrees of Urban VIII and other Popes, cited above, are to be understood as pertaining to manual stipends, which are customarily given solely by title of celebration.

II. Therefore, the stipends for Masses, which, although in some way determined, are nevertheless received by title of a benefice, a chapel which the priest possesses, or even a legacy which has been bestowed upon him, are not included under the aforementioned decrees.

III. However, even in these cases, it may be illicit to retain a portion of the charity, whenever this has been prohibited by the founder or testator; for example, if he has expressly or implicitly forbidden that a portion of the stipend be retained by the chaplain or legatee.

IV. Manual stipends are to be considered those stipends for Masses which the legatees themselves are obligated to deliver for the celebration of Masses.

V. Therefore, those priests who receive a larger stipend solely by title of celebration, are not able to retain any portion of it for themselves, but must remit it to another priest who is assigned to celebrate the Masses (1).

(1) In the case presented, those pious legates, that is, those who receive legacies, appear to have given, in the words of L. 21 Decret., fol. 333, which concerns legacies given to churches for Masses, such that the resolution of the Sacred Congregation of August 3, 1658 states that the churches were to be considered legatee, with the obligation on the legate in Rome. The testator had left a sum of 500 scudi to be used to have Masses celebrated for the benefit of a particular church. The priests, to whom it was desired to be

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given in favor of said church, received it as legatees, and were obligated to celebrate Masses for the benefit of the church, and the administrators of the legacy sent the funds from the fruits of the church, so that the priests would celebrate the Masses. The question was raised whether the priests were to celebrate as many Masses as the sum would allow, or whether the churches, which are considered to be the legatees in this matter, could celebrate only three Masses for each Mass, given the customary stipend. The question was asked: "Is it due to the priest celebrating, in the manner of a legion, three Masses for the soul of the testator, retaining the remainder?" This question cannot be resolved in general, unless the customary charity of one Mass is given, or at least the remainder is ceded for the benefit of the church."

Regarding the customary interpretation of foundations: To this, the Sacred Congregation responded: "According to what is narrated, it may be understood that the priest celebrating could be obligated to give to the church the customary charity, retaining the remainder, as if ceding the larger portion of the stipend for the benefit of the church."

[*Latin ed. p. 42*]

42 FROM S, CONGREGATION OF SACRED RITES, GENERAL DECREE. "After the more recent liturgical laws established by the Supreme Pontiffs Pius V, Clement VIII, Paul V, and Urban VIII, a serious controversy arose among Doctors and Rubricists concerning whether the sanctuary could be opened in Masses for the dead to offer the faithful the bread of the Eucharist." The Congregation of Sacred Rites, consulted for the first time on July 4, 1683, in response to question IV, answered: "It is against the rite to administer Communion in a Requiem Mass, or after it, with black vestments, unless the blessing were administered after the Mass." However, the controversy was not yet settled, and the Sacred Congregation of Rites repeatedly gave answers in particular cases, but never reached a general decree. Meanwhile, from the opinions of some Doctors, the opinion spread that it was permissible to administer the Holy Eucharist to the faithful only with particles in Masses offered for the dead; then, in some places, the custom prevailed of celebrating Masses for the dead in violet vestments, so that not only within the Mass, but also before or after it, the piety of the faithful desiring to receive the Holy Eucharist would be satisfied. Therefore, especially the Bishops most frequently requested the Congregation of Sacred Rites to decide, by a general decree, what should be done in this matter. The Sacred Congregation, on April 12, 1823, in Palermo, decreed that this matter appeared particularly and officially important. This was repeated in 1837 in Modena, where in response to question III, "Can the custom still prevailing of administering Communion in Masses for the dead with consecrated particles be permitted, etc.?" the answer was: "Let the rescript of April 12, 1823, in Palermo, be observed." Nevertheless, due to the circumstances of time and events, this particular

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matter has been the subject of lengthy discussion until our time; indeed, in a meeting held on September 16, 1865, when the use of violet color in Masses for the dead at the altar where the Most Holy Sacrament of the Eucharist is kept was being discussed, the answer was: "Let it be deferred, and presented together with..."

[*Latin ed. p. 43*]

DECREE GENERAL. 43. Another question arose: whether a priest can open the ciborium to distribute Holy Communion to the faithful while wearing black vestments. Finally, on March 3, 1866, new requests from the Sacred Prelates were presented to the Ordinary Congregation of the Sacred Rites. The question, along with the opinion opened by another Consultor "Whether a priest can open the ciborium to distribute Holy Communion to the faithful while wearing black vestments?" was proposed. Truly, the Most Eminent and Reverend Cardinals responded: "After deliberation, and after the other Consultor, as well as the Assessor, having resumed all matters pertaining to the case; having especially considered the matter with regard to its suitability, the following was decided. After these opinions were printed and communicated, both the Reverend Assessor and another from the Masters of the Sacred Ceremonies, specially appointed, the Sacred Rites Congregation, convened today in the Ordinary Congregation at the Vatican, where the Most Eminent and Reverend Cardinal Nicholas Clarelli-Paraeciani, in place and instead of the absent Most Eminent and Reverend Cardinal Constantini Patrizi, Prefect, proposed the same question, and the Most Eminent and Reverend Fathers entrusted with guarding the Sacred Rites, after mature and accurate deliberation, even with regard to suitability, responded: Affirmative, that is, it is permissible to administer Holy Communion to the faithful, even from consecrated hosts, while wearing black vestments, in Masses for the dead, by taking the pyx from the tabernacle. It is also permissible to administer Communion while wearing black vestments immediately after a Mass for the dead; but, given a reasonable cause, also immediately before the same Mass; in both cases, however, the blessing is to be omitted. Masses for the dead, however, are to be celebrated entirely in black vestments; so that violet may not be used, except in the case where the Sacrament of the Most Holy Eucharist is exposed for public adoration of the faithful for the Solemn Forty Hours of Prayer, as is prescribed in the Decree of this Sacred Congregation of September 16, 1801. And thus they decreed, and ordered that it be observed everywhere, if it pleases the Most Holy Lord, on June 27, 1868. After I, the Secretary, made a report to the Most Holy Lord Pope Pius IX, his Holiness approved and confirmed the Decree of the Sacred Congregation on July 23 of the same year. C. E. P. Port, and S. Rufinae Card. PATRIZI S. R. C. Prefect.

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LocoS^Sigilli. Dominic Juartolini S. R. C. Secretary.

[*Latin ed. p. 44*]

APPENDIX I. The following decrees of the Holy Congregation of Rites, pertaining to the Gardellinian collection, which we have largely reproduced in Appendix XII of the third volume, are presented and explained. BURGI SANCTI SEPULCHRI. When the Most Reverend Lord Joseph Singlau, Bishop of Burgo Sancti Sepulchri, requested that the following two questions be declared by the Sacred Congregation of Rites, namely: I. Since it has long been granted by the Apostolic See to the clergy of the City and Diocese of Burgo Sancti Sepulchri to recite the votive Office with Mass for the Immaculate Conception of the Blessed Virgin Mary on each Sabbath day, unless prevented by the Office of the Nine Lessons, except only on those Sabbaths on which the Office of the Sunday must be observed, the following question arose: whether the aforementioned votive Office can also be recited on those Sabbaths on which the Office of the translated, double, or semiduplex Office must be observed? II. Whether, in the prayers which are said outside of the Divine Office and Mass, a brief conclusion must always be used, or only when the Most Holy Sacrament is exposed? The Sacred Congregation decided that the following should be answered: To I. Negatively, according to the decrees of March 20, 1706, in the general decree; of August 31, 1839, concerning question I in Meliten; and of February 27, 1847, in Callien, in which it is declared that votive Offices cannot be celebrated on days on which the Office of the Nine Lessons, whether double or semiduplex, must be observed. To II. Prayers to be concluded with a brief conclusion outside of Mass and the Office. And thus it was written, and it was commanded to be observed. December 20, 1864. CAMBERIEN. The Most Reverend and Reverend Cardinal Alexius Billiet, Archbishop of Camberiensis, requested that the following question be declared by the Sacred Congregation of Rites: In the Dioceses of Sabaudia, it has seemed opportune that the Mass for the people, to which the people themselves are accustomed, be celebrated on Sundays and feast days, and this application is made by the Vicar, when he celebrates the parochial Mass in its place. Hence, the question arises: 1. Whether such a practice can be maintained and retained? 2. Whether the application must always be made by the Parish Priest, even when celebrating privately? The Sacred Congregation decided that the following should be answered: To I. Negatively. To II. Affirmatively, according to other decrees. And thus it was written, and it was commanded to be observed. December 20, 1864. OPPIDEN. In the Cathedral Church of Oppido, until the year 1838, on days from

[*Latin ed. p. 45*]

ix i. It is customary to recite the Little Office of the Blessed Virgin Mary

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or the Office for the Dead – of the THIRD ORDER of Saint Francis; or the Gradual Psalms or the Poetic Psalms, according to the instructions; which, however, were omitted, and it was requested that this be declared by the Sacred Congregation of Rites. But when it is judged that such an omission cannot continue to this time and that it cannot be restored at the end of the year, it is requested that the Sacred Congregation of Rites declare it; whether, according to the concession made to the Patriarchal Basilica of the Vatican on January 30, 1789, it may continue to be recited for a period of thirty years, or whether it is more fitting to restore the praiseworthy custom; whether, in addition to the aforementioned, it is permissible to recite these in both Vespers, Lauds, and the Office in the choir, with divine commemoration of the semi-doubles; the Sacred Congregation is to give a written opinion. It is entirely the opinion of the Sacred Congregation to restore the ancient custom, especially according to the decrees of Alexandria on September 22, 1827 (I). And thus it responded, and ordered that it be observed. On December 20, 1864. Mass with a historical reading from three?

II. Are the Regular clergy residing in Rome obliged to recite the Offices of the Supreme Pontiffs under the double rite, according to the Apostolic concession mentioned?

(t) The cited decree in Alexandria reads as follows: "A question arose once and again among the Canons of the Cathedral Church of Alexandria in Subalpine; whether they are bound by the statutes of the Rubric regarding the times and days for the recitation of the Psalms of Penance, the Gradual Psalms, the Office for the Dead, and the Office of the Blessed Virgin Mary? Some among them deny it, while others affirm it, and, in order that each may defend his opinion, they offer various reasons. The entire reason for this lies in the fact that, by Apostolic Letters of June 11, 1803, the Chapter of Alexandria was suppressed and extinguished, and erected into a Collegiate Church, and by other similar Letters of August 2, 1817, it was again erected into a Chapter; and that, by that suppression, all custom was abolished, while some affirm that it should be restored." To resolve all questions, the Dignitaries and Canons of the Cathedral of Alexandria proposed the following doubt to the Sacred Congregation: "Considering the circumstances mentioned above, should the custom of reciting the Little Office of the B. V. Mary, the Office for the Dead, the Gradual Psalms, and the Psalms of Penance in the Cathedral of Alexandria be considered abolished, and therefore, are the Canons released from reciting them, and may they therefore henceforth perform these Offices solely out of devotion?" To which the Sacred Congregation responded: "Considering the custom that formerly prevailed, the Canons are to be held to recite the Offices and Psalms as mentioned in the doubt, and the decrees of this Sacred Congre-

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gation are to be observed."

[*Latin ed. p. 46*]

4*6 APPENDIX: Under what rite does the Secular Clergy of the esteemed City perform?

I. Whether, in the exposition of the Most Holy Sacrament, or for the Forty Hours prayer, or for any other cause, must the three tablets be entirely removed from the altar of exposition, as the rubrics require for the convenience of the celebrant during the celebration of Mass?

The Sacred Congregation replied, judging it should be written: To I. Negatively. To II. Negatively. To III. Affirmatively. On December 20, 1864.

ULTRAIECTEN. The Most Reverend Lord Joseph, Zwysen, Archbishop of Ultraiecten, desiring that the votive offices of the Most Holy Sacrament and of the Immaculate Conception of the Blessed Virgin Mary, granted in the Calendar, may be regularly performed in the Archdiocese entrusted to him, requested that the following doubts be declared by the Sacred Congregation for Religious Rites, namely:

I. Whether the votive offices, as mentioned above in the Calendar, which are determined for specific feasts, and therefore occur less frequently, should also be celebrated on non-privileged feasts and within non-privileged Octaves?

II. And, to the extent that the answer to the first part is affirmative: Whether the Office of the Immaculate Conception should be recited on a Sabbath day, if it occurs within the Octave of some feast of the Blessed Virgin?

The Sacred Congregation judged that the following should be answered: To I. Regarding non-privileged feasts outside of Advent and Lent, affirmatively, provided that an Office, whether double or semi-double, is not to be transferred to them; regarding non-privileged Octaves, negatively. To II. Negatively, for it must be done *in fine* of the Octave. And thus it was written, and it was commanded to be observed. On December 20, 1864.

DOUBT. Having been asked by the Sacred Congregation for Religious Rites: If, on the anniversary of the consecration of a Bishop, it should be done on that very day concerning the anniversary of the election or consecration of the Supreme Roman Pontiff, should the prayer: "God of all the Faithful," be said twice, once for the Pope and once for the Bishop?

The Sacred Congregation judged that it should be written: In the case of the anniversary of the consecration of a Bishop, it should be done on the following day. And thus it was written, and it was commanded to be observed. On December 20, 1864.

I ADREN (1). The Director of the Calendar for the use of the entire Archdiocese of Ladren in Dalmatia, exposed to the Sacred Congregation for Religious Rites, the following: In the Benedictions with the Most Holy

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Sacrament, which are often performed more frequently in this City or Archdiocese, after "Tantum Ergo" and "Panem de Coelo," several prayers are said, namely the first prayer of the Saints.

(1) Before this Decree, another Order of the Minor Order of St. Francis is inserted in the Gardelliniana Collection, which I quoted in Vol. I, p. 240.

[*Latin ed. p. 47*]

11. To the Most Holy Sacrament, second to the Supreme Pontiff, third to the Emperor, fourth to the State, and fifth for the remission of sins: O God, who art offended by sin. And this final prayer, which was previously concluded with: "Through Christ our Lord," is now, in recent years, concluded thus: "Who livest and reignest in the ages of ages." Concerning this, the Sacred Congregation, adhering to its decree of September 10, 1718, in Catania, decreed. Furthermore, by the decree of the same Sacred Congregation of September 23, 1837, it was established that when, during Benedictions with the Most Holy Sacrament, several prayers are recited in conclusion, the rubrics must be observed, and since the aforementioned final prayer has, according to the rubrics, the conclusion: "Through Christ our Lord," the following questions were proposed to the same Sacred Congregation for clarification: I. Whether this prayer: "O God, who art offended by sin," in the case in question, ought to be concluded with: "Through Christ our Lord," or rather with the words: "Who livest and reignest in the ages of ages." II. If, besides the aforementioned five prayers, another collect is ordered by the Archbishop to be always recited in place of the last, and this collect has, according to the rubrics, its own conclusion, either: "Through Christ" or "Who livest," whether this collect ought to be concluded thus, according to the rubrics, or rather with the words: "Who livest and reignest." III. Finally, it is asked whether this ought to be said only in the case in which the final prayer has its own conclusion: "Who livest and reignest," or rather whether it should be said in any case. The Sacred Congregation considered it fitting to respond: The conclusion must be brief and must be in harmony with the final prayer according to the rubrics. On April 8, 1865. MILETEN. The distinguished Master of Ceremonies of the Collegiate Church of the City of Palmara, in the Diocese of Miletus, presented to this Sacred Congregation that abuses have occurred in all the churches of the aforementioned city, namely, the addition of other verses to the Lauretan Litany after "Queen of all the Saints," according to the different churches; and that the Rectors of the aforementioned churches consider this practice to be worthy of remembrance. The aforementioned Orator then proposed the following questions to the same Sacred Congregation, in order to remove all difficulty: I. Whether the asserted custom is permissible and therefore to be retained? II. And, to the contrary, whether only the verse: "Holy Mary of the Sacred Scripture," which is the Patroness of the City, can be added? III. Whether the name of the titular saint of each church can be

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added to the Litany. IV. Whether it is obligatory to add: "Queen conceived without original sin?" V. And, to the contrary, whether it is not obligatory to add: "Queen, mother of mercy..."

[*Latin ed. p. 48*]

APPENDIX I. 48. It is possible to freely add the aforementioned verse: "Was the Queen conceived without original sin?" Has the Holy See approved this? To I. No, to both parts of the question. And thus it was answered, and it was commanded to be observed. On September 16, 1865. CAMERACEN. (1). When the Most Reverend Renatus Franciscus Régnier, Archbishop of Cameracen, proposed the following questions to the Sacred Congregation of Rites: To I. No. To II. No. To III. No. To IV. No, unless there is a concession granted for the Diocese. To V. No. And thus it was answered, and it was commanded to be observed. On April 8, 1865. Concerning the Mass of SAINT JAMES OF CUBA. In the Metropolitan Church of Saint James of Cuba, it has been customary from time immemorial, that on the Feast of Saint Mark and during the Rogation Days, the Litany of the Saints is recited in such a way that each verse is begun by the singers and concluded by the clergy. However, recently a doubt arose as to whether this is done correctly, so the Chapter of the Metropolitan Church, appealing to the Sacred Congregation of Rites, requested a solution to the following question: In this case, must each verse of the Litany be recited completely by the singers and repeated by the clergy; or is it sufficient that they begin the verses and the clergy end them, as has been done up to now? The Sacred Congregation answered: Affirmative to the first part, negative to the second. Can the ancient custom be tolerated for a private Mass, with two candelabra placed on either side of the altar? II. Is it permissible to cover a burning lamp before the Most Holy Sacrament with a veil for the purpose of preventing drafts? Also, are gilded candelabra on the altar permitted, both during and outside of the celebration of the Holy Sacrifice? III. In various editions of the Missal, the readings to be recited after the Roman Canon are not the same before Communion: Which of the two readings is preferable? Is it the one that promotes tranquility, or the one that promotes the tranquility of this desired consolation? IV. A certain parish priest placed two seven-branched candelabra on each side of the altar, instead of six candelabra, in the manner of a Mosaics candelabrum. Is this deviation from the rubrics tolerated? V. In the Entrance of the Mass of the Most Sacred Heart of Jesus, two Alleluias are recited.

(ii) This Decree follows two others issued in Cameracen and Iesi concerning the translation and concurrence of feasts, which I mentioned in Volume I, pages 294 and 296.

[*Latin ed. p. 49*]

APPENDIX I. Concerning the removal of the "Alleluia" during Lent: The

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Sacred Congregation considered and responded as follows: To Question I: Affirmative, that this custom, although ancient, being contrary to the law, ought to be abolished. To Question II: Affirmative regarding the first part; regarding the second part, it can be tolerated, except on solemn days. To Question III: Affirmative regarding the first part; negative regarding the second part. To Question IV: Negative. To Question V: Affirmative. And thus it decreed, and ordered that it be observed. September 16, 1865. Concerning the candle or palm: Whether the candle or palm should be taken first, or whether first the hand of the Bishop, and then only the candle or palm? The Sacred Congregation considered and responded as follows: Negative regarding the first part; affirmative regarding the second part. September 16, 1865. VENICE. The Prefect of the Congregation for Clerics and Students of Charity residing in Venice humbly proposed the following question to the Sacred Congregation of Rites: Whether, when the First Vespers of the Most Holy Virgin Martyr Agnes, the titular saint of the aforementioned Congregation, coincide on the same day with the Second Vespers of the Feast of the Most Holy Name of Jesus (which in Venice is celebrated with a double rite of the First Class), the Vespers should be celebrated for the titular saint, or for the Most Holy Name of Jesus, or should they be shortened? Ratisbon. A certain printer from Ratisbon humbly inquired of the Sacred Congregation of Rites: Whether, in votive Masses for the Immaculate Conception, the word "solemnitate" should be said in the Secret of the Mass, or rather, whether instead of this word, the Secret of the Mass granted for Vigils should be said, which seems entirely appropriate for votive Masses? The Sacred Congregation responded: Affirmative regarding the first part; negative regarding the second part. September 16, 1865. The Sacred Congregation considered and responded as follows: According to the rubrics and the decrees of this Sacred Congregation, the feast of the titular saint shall have the complete First Vespers with only the commemoration preceding. September 16, 1865. TUSCANIA. BITURG. When the following question was proposed to the Sacred Congregation of Rites: Whether, when receiving the candles and palms, the canons and others should first kiss the hand of the Bishop, and then the candle? When a certain priest from the Diocese of Tuscania proposed the following question to the Sacred Congregation of Rites for a suitable solution: Whether, in daily Masses of Requiem, the priest, whether for the sake of alms or by bequest, privately celebrates...

[*Latin ed. p. 50*]

50 APPENDIX I. Regarding prayers either for the general intention or for the souls of specific deceased persons, should one indiscriminately recite the first prayer, "Deus qui animas omnes," etc., which is assigned first in the Missal, or should one, instead of reciting that first prayer, recite another prayer taken from those provided in the same Missal, one that is suitable

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for the intention or for those specific deceased persons for whom the Mass is offered? The Holy Congregation responded: Affirmative to the first part; negative to the second. On September 16, 1865.

CONCORD. When the Canons of the Cathedral Church of Concord celebrate the sacred rites and chant the Divine Office in the Concatedral Church of Portogruaro, dedicated to Saint Andrew, they humbly requested a solution to the following question from the Sacred Congregation of Rites: Whether the Canons are obliged to celebrate the feasts of the titular saints and of the dedication of both churches, and indeed with the Octave? The Sacred Congregation responded: Affirmative. On September 16, 1865.

LYCIEN. In the Cathedral of Lyciensi, there are three dignities, besides the Bishop, namely, the Archdeacon, the Cantor, and the Treasurer; and since a Vicar Capitular has recently been added to the office of Cantor, in order to remove any cause for disagreement regarding precedence, this Vicar Capitular proposed the following two questions to the Sacred Congregation of Rites: I. When three dignities are present in the sacred functions or public processions, and the Cantor is wearing the vestments of a Vicar, to whom does precedence belong? II. Or, if only two dignities are present, which one should precede? The Sacred Congregation decided to respond as follows: To I. Precedence belongs to the first dignity. To II. If the Archdeacon and Cantor are present, precedence belongs to the Archdeacon; if the Cantor and Treasurer are present, precedence belongs to the Cantor. And if the Vicar Capitular is present wearing the vestments of a Vicar, he loses his precedence. And thus it responded, and ordered that it be observed. On September 16, 1865.

AUGUSTODUNEN. When the Most Reverend Bishop of Augustodunen humbly requested a solution from the Sacred Congregation of Rites to the following questions: I. Is it permissible to proceed with the consecration of a church in which all the altars have already been consecrated, omitting those rites that pertain to the consecration of an altar? II. Is it permissible for two Bishops to proceed with the consecration of a church, one of whom consecrates the church itself, while the other consecrates an altar in the same church? The Sacred Congregation decided to respond as follows: To I. No. To II. This is contrary to the rite of consecration of a church. On March 3, 1866.

[*Latin ed. p. 51*]

I. DOUBTS. When the following doubts were presented, the Sacred Congregation of Rites, after deliberation, gave the following answers: I. Whether, and when, the third Collect in the Mass is optional, and whether this Collect can be recited on any Sunday, for example, the first or second after Pentecost; the first of Advent; or on any weekday, or for a Blessed soul? II. Can Masses be celebrated throughout the year, either on Sundays or weekdays, as votive Masses? III. Is it permissible for priests

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who have attempted the Office of a double canon to celebrate a Mass for the Dead in a foreign church, where the double Office is not recited, even if the funeral rites are being performed for a deceased person, with the body present, or for an anniversary? The Sacred Congregation decided to respond as follows: To I: Negatively, in all cases. To II: Negatively. To III: Affirmatively. March 3, 1866. GNIESEN AND POZNAN. When the Most Reverend Miecislaus Ledóchowski, Archbishop of Gnesen and Poznan, inquired of the Sacred Congregation of Rites which order of the Divine Office should be followed, since both dioceses under his jurisdiction have a different order, the Sacred Congregation decided to respond as follows: It is left to the discretion of the Archbishop, provided that the feasts of the patrons and the dedication of each church are observed. March 3, 1866. TANNEN. A parish priest in the town of Vollri, within the Archdiocese of Posen, was in doubt as to whether, in addition to the feast of the Nativity of Saint John the Baptist, the principal patron of the entire diocese, he was also obliged to celebrate, by order, the feast of Saint Charles, Bishop and Confessor, on November 4th, since this was formerly the principal patron of his own parish, but was not confirmed after the reduction of feasts made by the Popes Pius VII and Pius IX. He humbly requested a clarification on this matter from the Sacred Congregation of Rites. The Sacred Congregation, after consideration, also decided to respond as follows, with the opinion of the Master of Ceremonies: In this case, the feast of the Nativity of Saint John the Baptist, the principal patron of the entire diocese, must be observed by order. March 3, 1866. NOVARA. In the city of Novara, there is a public chapel built by the Countess Margaret Montani, in honor of the Immaculate Conception of the Blessed Virgin, in which ecclesiastical functions, which are not permitted in a parochial church, are performed, with the consent of the Bishop. Now, the current pastor, within whose parish boundaries this chapel is located, claims certain rights regarding these very functions, and therefore, the officiating priest has been instructed by the Bishop to obtain permission from the aforementioned pastor; she has experienced this as very burdensome, because in numerous decrees of the Sacred Congregation of Rites...

[*Latin ed. p. 52*]

52 APPENDIX I. This writing is presented for consideration. Therefore, the Petitioner humbly requested that the Congregation declare, or rather, decide, whether, from now on, ecclesiastical functions, which in no way infringe upon parochial rights, may be performed and celebrated in the aforementioned chapel, with the permission of the Bishop alone, so that, in a similar manner, all disputes and quarrels may be completely removed. The Sacred Congregation judged that a response should be given: Nothing prevents the aforementioned functions from being carried out in the aforementioned chapel, with the permission of the Bishop alone, accord-

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ing to other decrees, and especially in Ripana on June 14, 1845 (1). On March 3, 1866. ABELLINEN. Although in funeral processions only one cross should be carried, that of the church in which the deceased is to be buried, nevertheless, the parish priests of the city of Abellinen, from time immemorial, on the occasion of the association of corpses and in other processions, walk with their own cross, with a hanging veil or pall, and this even if the Chapter of the Cathedral Church is present. The Reverend and Most Reverend Lord Francis Gallo, Bishop of Abellinen, doubtful as to whether this custom can be tolerated in order to resolve all controversies, humbly requested a solution to the following doubts from the Sacred Congregation of Rites: I. Can the parish priests, given this custom, elevate all the crosses for leading funerals when the Chapter of the Cathedral Church is not present, or should only one cross be carried, and that of the church where the burial takes place? II. What is to be done when the Chapter of the Cathedral Church is present? III. Is the same rule to be followed in festive processions? The Sacred Congregation, after careful deliberation by the Masters of the Sacred Rites, judged that a response should be given: To I. Negatively to the first part; affirmatively to the second. To II. When the Chapter of the Cathedral Church is present, the cross of the church where the burial takes place, and no other, should be used. III. If the Chapter of the Cathedral Church is present, all should walk under the cross of the Cathedral Church. If, however, the Chapter of the Cathedral Church is not present, the cross of the church where the procession takes place should be elevated, and all who are of the Secular Clergy should follow. And thus it responded, and it was ordered to be observed in the city of Abellinen. On April 28, 1866. DE GUADALAXARA. When the Most Reverend Lord Peter Espinosa, Archbishop of Guadalaxara, humbly proposed the following doubt for consideration: Can sacred vestments truly be made with a large amount of gold, except for the colors violet and black? (1) In the aforementioned case of Ripana, a completely similar situation was presented to the Sacred Congregation, and the same response was given on that date. One may also consult what I have added in Vol. II, page 517.

[*Latin ed. p. 53*]

ix i. What is the ruling? The Sacred Congregation responds: The custom of the place is to be tolerated only with respect to vestments made of gold. April 28, 1866. NOLANA. When the Most Reverend Joseph Formisano, Bishop of Nola, presented to the Sacred Congregation priests of his diocese to whom, due to infirmity or another reasonable cause, the privilege of celebrating a votive Mass to the Blessed Virgin Mary had been granted, and who were often in doubt regarding the manner in which such Masses should be celebrated, he therefore humbly requested a solution to these doubts, namely: I. Can a priest, to whom the Holy See has granted the power to celebrate a votive Mass to the Most Blessed Virgin, celebrate such

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a Mass even on more solemn feasts, or on privileged days, for example, on the Nativity of the Lord, on the Feast of Pentecost, or on Palm Sunday? And if so, under what conditions? II. Is he obliged to always use the color white, or a color appropriate to the feast? III. Is he obliged to add the Creed or the Gloria, whether privately or publicly, in such a votive Mass on more solemn feasts? IV. When, on a given day other than the feast of the current day, another collection for Saint Simplicius or for the feria occurs, will the prayer be for the Holy Spirit, as prescribed in the general rubrics, or for Saint Simplicius or for the feria? V. Will a collection be added to this votive Mass, if any has been prescribed by the local Ordinary? VI. On the day of the Nativity of the Lord, can this priest celebrate three Masses for the Blessed Virgin? The Sacred Congregation responds: To I. Affirmative. To II. He must always use the color white, according to other decrees. To III. Negative, except for the Gloria on Saturdays. To IV. He must read only those prayers that are appropriate for a votive Mass. To V. Negative. To VI. Negative, according to other decrees. And thus it responded, and ordered that it be observed. April 28, 1866. PATAVINA. The Master of Ceremonies of the Cathedral Church of Padua, with the consent of his Ordinary, humbly requested the Sacred Congregation to declare the following doubts: I. Are religious residing in the Diocese of Padua obliged to recite the offices granted to them upon the petition of Kings and Princes to all regions under their jurisdiction, with express mention of both the secular and regular clergy? II. Are these same religious obliged to recite the offices granted to all domains subject to the King or Prince, without any distinction made in the Indult regarding the clergy? III. Are offices granted to both clergy of a diocese? IV. Are the offices of feasts obligatory for the diocese, as a matter of law?

[*Latin ed. p. 54*]

APPENDIX I. The Congregation of Indulgences judged it fitting to respond as follows to the Ceremonial Master: To questions I, II, and III, affirmative, if the offices have at any time been accepted by the religious; otherwise, negative. To question IV, affirmative, and the decrees should be given. April 28, 1866.

SESSION. The Ceremonial Master of the Cathedral Church of Suessiones humbly requested a solution to the following doubts from the Sacred Congregation: I. Must a Canon celebrating Mass, who is about to impose ashes on the Bishop, wear the *pluvialis* or the *casula* of Holy Week? II. When the Epistle of the strong woman and the Epistle for widows are read in Mass on the Feast of Saint Widows, not Martyrs, may the celebrant freely choose to read either the Epistle of the strong woman or the Epistle for widows? And to this, affirmative. III. In solemn or chanted Masses of the same Saints, the Subdeacon is always obliged to chant the same Epistle that is read by the celebrant?

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The Sacred Congregation judged it fitting to respond as follows: To question I, negative to the first part, affirmative to the second. To questions II and III, the rubrics must be observed. And this was the response, and it was ordered to be observed. April 28, 1866.

SAINT JAMES OF CHILE. A controversy arose among some Canons of the Metropolitan Church of Saint James of Chile, concerning whether the use of ampullae made of gold or silver should be tolerated in that city; to resolve the matter, the following two doubts were proposed to the Congregation of Sacred Rites: I. Is it permissible to use golden or silver ampullae in the sacrifice of Mass? And to this, negative. II. Is the custom that has prevailed entirely to be disapproved in this case?

The Sacred Congregation judged it fitting to respond as follows: The custom is to be tolerated. April 28, 1866.

SAINT JAMES OF CHILE. The Most Reverend Raphael Valentinus Valdivieso, Archbishop of Saint James of Chile, explained that in the churches of his Archdiocese, the custom has long been observed of not covering the Tabernacle, in which the Blessed Sacrament is kept, with a *conopeum*, but rather of adorning it only with a beautiful silk veil, often even woven with silver or gold; he humbly requested the Sacred Congregation to declare whether such a custom is to be tolerated, or rather, whether it is to be required that the *conopeum* be placed over the aforementioned veil, or without it, as prescribed in the Roman Ritual.

The Sacred Congregation judged it fitting to respond as follows: The use of the aforementioned veil may be tolerated, but the Tabernacle must be covered with the *conopeum* according to the prescription of the Roman Ritual.

[*Latin ed. p. 55*]

APPENDIX I. And thus he responded, and it was commanded to be observed. On April 28, 1866, from the archives. To remove all doubt, the Most Reverend Lord of BONONIENSE, Joseph Tornaceli, Prefect of the Sacred Congregation for Indulgences, having proposed two questions for a suitable solution to the diocese: namely, concerning the elevation of the rite in the Feast of the Purification of the Blessed Virgin Mary to the first class, from the part of the titular churches of the Octave in the aforementioned diocese, and concerning those who fall within the Archdiocesan day proper, or those who are permanently attached to it, it was asked by the Sacred Congregation: whether the Octave pertains to all and each, or only to those who fall within the aforementioned day, or only to those who are always attached to the titular church of the Bishop and Martyr Saint Blaise, patron of the titular church and city of Centi, and whether, at the first Vespers, they ought to be of the said Saint Patron, with the commemoration of the preceding day, or of the following day; and whether, when the Feast of the Annunciation is transferred to a Feria, it ought always to

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enjoy the Octave after the Sunday in Albis in the church where the title is held? The Sacred Congregation, having heard the opinion of the Masters of Ceremonies, decided to respond: affirmatively to the first part; negatively to the second. On September 15, 1866. To I. Negatively to the first part; affirmatively to the second.

TORNACEN. Since the feasts of the titular churches are not infrequently transferred, some doubts have arisen among the Liturgists concerning their Octave: for there are those who hold that the titular church ought to have the Octave when the Feast of the Annunciation is transferred, as far as the choir and the people are concerned; but they do not believe that the Octave ought to be observed as far as the choir is concerned, unless a special privilege is present. They infer this from the words of Title X. And so he wrote back, and commanded that it be observed, that the Octave ought always to be observed by the titular churches, whenever they are transferred. On September 1, 1866.

CARCASSONNE (I). The Most Reverend Francis Alexander Boullet de la Boullerie, Bishop of Carcassonne, as the Sacred Congregation most strictly commands, that such things ought to be done with a privilege, while others believe that the aforementioned words of the rubric are to be understood of a fixed translation, or of a special privilege. Before this decree, in the Collection of Gardellin, the decree of the City and the World concerning the concurrence of the Instruments of the Passion of the Lord and the Chair of Saint Peter is cited, which I have cited in Vol. II, p. 239.

[*Latin ed. p. 56*]

56 APPENDIX I. concerning whether those towns in Gallia which have chosen a particular patron should postpone the feast day of that particular patron to the following Sunday, or whether, in addition to this, they should also postpone the feast day of the principal patron of the diocese. The Sacred Congregation responded: Both feasts, whether of the patron of the diocese or of the particular town, should be transferred to the following Sunday. And thus it responded, and ordered that it be observed. February 9, 1867. COMPOSTELLANA. Concerning the Metropolitan Church of Compostella, in which, according to the disposition of Saint Pius V, the Gospel is sung in the choir during solemn Masses, and in which the deacons are accustomed to vary the ancient custom of the church, whereby a subdeacon carries the book of the Gospel to the celebrant for him to kiss, the Sacred Congregation inquired: Whether the deacon, after finishing the singing of the Gospel in the choir, should hand the book to the subdeacon so that he may carry it to the celebrant for him to kiss? The Sacred Congregation responded: The ancient custom should be observed. And thus it responded, and ordered that it be observed. February 9, 1867. DIANEN. The Most Reverend Dom Dominicus Fanelli, Bishop of Dianen, having obtained from the Holy See a privilege, due to the grave infirmity of his eyes

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with which he suffers, to celebrate a votive Mass to the Blessed Virgin Mary daily, humbly inquired of the Sacred Congregation: Whether he may also avail himself of this privilege on those days in which he confers the Sacred Orders. The Sacred Congregation responded: It will be permitted for him to have the Sacred Ordinations outside of the usual times, according to the Apostolic concession. And thus it responded. February 9, 1867. SAINT-FLOUR. The Most Reverend Bishop of Saint-Flour humbly requests a solution to the following questions concerning the consecration of an altar stone: It is stated in the Pontifical that the Bishop, after having dipped his thumb in blessed water, makes the sign of the cross in the middle of the stone, saying: "May the Holy Cross be made upon you, and may this stone be consecrated in the name of the Father, and of the Son, and of the Holy Spirit. Peace be with you." Then he makes four crosses on the four corners of the altar, repeating the aforementioned words. The following is inquired: I. Is it necessary to make five signs with the thumb in the middle, and then five other signs on each corner, for a total of twenty-five? Or is it sufficient to make only one sign of the cross in the middle, and then another on each corner, for a total of five? II. If five signs are necessary each time, must all of them be made with the thumb? Or is it sufficient to make the first two signs with the thumb, and the last three with the hand extended over the stone? The Sacred Congregation responded: Consult the rubric of the Roman Pontifical, which prescribes that two signs of the cross should be made with the thumb in the middle, and on each corner. And thus it responded. February 9, 1867.

[*Latin ed. p. 57*]

x x. TRASCALEN. In the Diocese of Trascalen, since several portable altars were to be consecrated, the present Bishop of Trascalen, Dom Charles Mary Colina, in order not to be overly fatigued, decided to perform their consecration in pairs or in threes each week. However, when the blessed water, mixed with salt, ashes, and wine, required for this blessing, often remained in excess, the aforementioned Bishop proposed the following two questions to the Sacred Congregation: I. Can the blessed water that remains over from one consecration be used in the subsequent one? II. And, if so, for what number of consecrations can the same water be used? The Sacred Congregation responded: Negatively, in all cases.

February 9, 1867. ORDER OF PREACHERS. The Director of the Calendar of the Province of Occitania of the Order of Preachers reported that it sometimes happens that a Religious of that Order, who performs the Office for a Blessed according to his own Calendar, is invited to celebrate in a parish church, in which, according to the Diocesan Calendar, the Office for the same Blessed is also performed. Since, according to a Decree of the Sacred Congregation of September 7, 1816, those who recite the Office for a Blessed, when celebrating in other churches, must conform to the customs

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of the church in which they celebrate, and from another general Decree of September 27, 1659, it is held that Masses which have been granted to certain persons, namely, Regular or Secular priests of a certain place or monastery, or priests devoted to the service of a certain church, should not be celebrated by priests of any rank, even Cardinals, the aforementioned Religious finds himself in a dilemma: what he should do in this case, since celebrating Mass is necessary in La Roche, and there is no other priest available than the aforementioned Religious. Therefore, the aforementioned Director of the Calendar humbly inquired of the Sacred Congregation: Can the Religious conform to the customs of the church in which he celebrates in the case described? The Sacred Congregation responded: Affirmatively.

April 13, 1867. JACA. The Penitentiary Canon of the Cathedral Church of Jaca reported that the Prebend, which he holds, had not been established until recent years. Therefore, since he could not find any customs regarding assistance at the altar for a Deacon and Subdeacon, and since he was the first to be appointed to the office of Penitentiary, he followed the same practice as the other Canons in this matter. However, since he often has to leave several penitents unconfessed because of this assistance, he was greatly distressed, and since this practice is not followed in the Metropolitan or Cathedral Churches of Spain.

[*Latin ed. p. 58*]

58 APPENDIX I. The Most Reverend Congregation of Rites has decreed that the following matter should be written down: Concerning the distinction of Canarian and Teneriffe relics. On April 13, 1867. It was inquired of the Most Reverend Congregation whether the first relics should be renewed, or whether it suffices for the Bishop himself, who consecrated them, to open the sepulcher and add the relics of another Saint there? And whether the second relics can remain as they are, permitting that the Divine Office be celebrated in them, since they cannot be distinguished from those who have the relics of two Saints in the sepulcher? The Most Reverend Congregation of Rites judged it advisable to petition for a dispensation for caution's sake. On April 13, 1867. Having made a report of the above to the Most Holy Pope Pius X, His Holiness deigned to grant the dispensation as stated, insofar as it is necessary. On May 2 of the same year. The Bishop of the Canaries and the Apostolic Administrator of Teneriffe found in the altars of the churches of both dioceses, not properly consecrated altars or stone tables: and he himself consecrated many hundreds, so that he might enrich the churches with them. However, there exist: 1. Some which, through error, contain the relics of only one Saint, a martyr, and which are separated from others. 2. Some of which there are very few, and concerning which there is doubt as to whether they contain the relics of one or many Saints, and which, after careful consideration by a large number of others, are classified as

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BORTEN. In the Cathedral Chapter of the Church of Boblingen, it has been customary until now for the hebdomadarius [chaplain] and canons to make the sign of the Cross, calling upon God for help, at the beginning of all Hours and Lauds; saying, "Ad adiutorium nostrum, ad Domini," for grace, for indulgence, for absolution, etc., and at the end of the Prime and Compline, saying, "Ad Benedictus, Magnificat, and Nunc dimittis;" and to make the sign of the thumb to the mouth at "Domine labia mea aperies," and the sign of the hand to the breast at "Convert us, O God." However, only three of the canons believe that in some of the aforementioned places, only the hebdomadarius should make the sign of the Cross, with regard to the service of the altar to be performed by the Canon Penitentiarus [canon responsible for penitents]. Regarding this, the Ordinary, with the permission of the aforementioned Congregation, proposed the following questions: 1. Can the Canon Penitentiarus be compelled to serve for the Deacon and Subdeacon in Pontifical and Semi-Pontifical functions, whatever custom to the contrary may exist? 2. If the answer to the first question is negative: is the Canon Penitentiarus obligated to do so in the Cathedral, given the circumstances as explained?

[*Latin ed. p. 59*]

APPENDIX I. It must be declared, and this applies to no one else. In order that this difference may not provide an opportunity for discord in the recitation of the Divine Office, the Canon Prebendary, in the name of the Chapter itself, requests that the Most Holy Roman Church declare whether the ancient practice should be observed, or not; with the exception of the Psalms of Benedict and the Magnificat, concerning which consultation has already taken place with the Holy Congregation. The Holy Congregation responded: "The custom should be observed. And so it responded, and it commanded that it be observed." April 13, 1867. MECHLINIEN. The General Prefect of the Society of the Most Holy Sacrament, a few years ago, proposed certain questions to the Holy See, canonically approved, regarding the arrangement of the Office and the Mass, as well as other sacred rites and ceremonies, and humbly requested that these be explained by the Holy Congregation of Rites. The questions are as follows: I. According to the Indult of June 9, 1863, by which the Holy See benignly granted to the Society of the Most Holy Sacrament the use of the Calendar of the Eternal City, it is declared that the Office of the principal patron of the place should be added. The question is asked: Is "place" to be understood to mean only the Diocese, or also the City and Kingdom, given that all these places have their own principal patron canonically elected and approved? And if so: Should the commemoration of these aforementioned patrons be included among the common suffrages? Furthermore, should a special Office be used specifically for these places, or should one recur to the Common of the Saints, whether for the Mass or for the Office? II. When the Mass is

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celebrated in a foreign church, and it is the feast of a lesser double, with a proper Mass having a different color from the Office of the celebrant; the question is asked: Is it permissible to recite the proper Mass, or should one proceed to the Common of the Saints? III. According to the Indult for the reduction of feasts in the Kingdom of France, the Feast of the Dedication of consecrated churches is to be celebrated on the Sunday after the Octave of All Saints; the question is asked: Does this aforementioned Indult apply only to Cathedral and parish churches, or also to religious houses? And if so: Are the religious houses obliged to transfer the anniversary of the Dedication of the Cathedral church, or are they entirely excused? The General Superior wished, assuming that the aforementioned Indult also includes the Dedication of religious houses, that it be permitted to the members of his Society to celebrate the anniversary of the Dedication of their consecrated churches, as is permitted by common law, that is, on the very day of their consecration. IV. The title used during the actual consecration of the church, which the Congregation of the Most Holy Sacrament has in Brussels, in Belgium, was: "Altar of the Miraculous Sacrament." This was on the first Sunday of the month.

[*Latin ed. p. 60*]

60 APPENDIX I. In Brussels, the feast of Saint Alphonsus is celebrated with a double office of the First Class, with the Octave Office of the Most Holy Sacrament being repeated. Since there is no certain knowledge of a canonical institution of this feast, especially after the Bull of Christ Our Lord, Pope Pius VII, by which all rights and privileges of churches located in the territory of the Republic of Galicia were abolished, the following questions are raised: 1. Does the aforementioned title still hold validity? 2. What office should be used in its celebration?

V. The crosses prescribed for the sacred unctions in the dedication of the aforementioned church were not placed as indicated in the Pontifical, and furthermore, through sheer negligence, certain things were destroyed and thrown into a ditch and against a wall. The question is: should new crosses be provided in their proper place and order, and should the ceremonies of unction be performed according to the form of the Pontifical?

VI. Is it permissible to use a part of the church, especially a consecrated church, such as a cellar and other similar areas, to store wine and other profane items, even though access to these locations is outside the main body of the sacred building?

VII. In some places, the custom of wearing a stole during the proclamation of the Divine Word, even outside of the solemnities of Mass, is still practiced. The question is: is this custom legitimate, and does it obligate religious in their churches? And if affirmative, what color should this stole be: always white, or rather, the color of the day?

VIII. It is asked: can certain prayers be prescribed, or at least permitted,

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to be recited at the altar after Mass, even without the sacred vessels being removed? Does this seem to contradict the Decree of the Council of Trent, of August 31, 1669?

IX. It is asked: is it permissible to use certain public prayers, written in the vernacular language, to be recited before the Most Holy Sacrament is exposed? Can an exception be made for commonly used formulas such as "Honorable Ladies," etc.?

X. It is asked: is it commendable to admit the use of a symbolic ornament, such as a royal or imperial diadem, in the ostensorium or monstrance?

XI. In some places, a cushion is placed under the ostensorium during the exposition of the Most Holy Sacrament, and some assert that this is required, citing a rubric in the Missal that prescribes the use of a cushion in the Missal during the celebration of Mass. The question is: should a cushion be placed under the ostensorium?

XII. It is asked: can the custom be observed, which prevails in the dioceses of Belgium, of ringing a bell during Mass, during the exposition of the Most Holy Sacrament, especially in the case where the altar where Mass is celebrated is near the larger altar where the exposition takes place, and thus the danger of irreverence towards the openly exposed Most Holy Sacrament is avoided? Likewise: can the practice of collecting alms in those places be maintained?

[*Latin ed. p. 61*]

IX. In parishes where the Blessed Sacrament is exposed, how many? XIII. It is asked: whether the faculty of blessing ornaments, sacred linens, etc., graciously granted to us by the Holy See, as a general grant, extends to ornaments not only of our churches, but also of those of others? And if the answer is negative: we desire the extension of said faculty to the gratuitous distribution of ornaments to poorer churches.

XIV. It is asked: whether the commemoration of all the Apostles on June 29th, and of all the Martyrs on December 26th, granted for the reduction of feasts in the territory of the Gallican Republic, applies to those of us who use the Calendar of the City? And if the answer is affirmative: whether said commemoration should be performed immediately after the prayer of the feast day, or rather in its proper place, for example, after the commemoration of the Sunday if it occurs on June 29th, and on the Octave of the Nativity on December 26th?

The Sacred Congregation, having heard the opinion of the Master of Ceremonies, decided to respond as follows:

To I. Affirmative to the first part of the question concerning the particular patron of the place; affirmative to the second; as for the third, the commemoration should be taken from the proper Office if one exists, otherwise, using the common form, changing the words that indicate a birthday or

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feast day in those that express remembrance.

To II. Unless it is known of a special privilege, the Mass should be read from the Roman Missal by outsiders.

To III. Affirmative to the first question; as for the second, negative to the first part, affirmative to the second; and to the petition, negative.

To IV. Affirmative to the first part of the question, but omitting the word "miraculous" in the title; likewise affirmative to the second, adding the word "with the Most Holy."

To V. The crosses should be painted again in the church, six on the right side, six on the left; but in such a way that two are near the main altar and two near the church door, omitting the ceremony of anointing.

To VI. Negative.

To VII. Affirmative in all respects to the first part; as for the second, the color should correspond to the Office of the day.

To VIII. Affirmative, provided that the prayers are said with the consent of the Ordinary.

To IX. Affirmative, provided that it concerns approved prayers.

To X. Deferred.

To XI. Negative.

To XII. Negative to the first part, affirmative to the second, near the church door and without noise.

To XIII. Negative in all respects.

To XIV. To the first question, affirmative; as for the second, negative to the first part, affirmative to the second. And thus it was written, and it was ordered to be observed.

On August 31, 1867.

Subsequently, concerning the fourth of the aforementioned questions, Pope Pius X was informed. His Holiness...

[*Latin ed. p. 62*]

62 APPENDIX I. having approved the sentence of the Sacred Congregation, deigned benignly to grant permission. On the 5th of September, he granted permission in the same manner. AMBIANEN. Reverend Father, the General Vicar of the Diocese of Ambianen, presented the following doubts to the Congregation of Sacred Rites:

I. Whether, in the administration of Baptism, questions, to which the godfather of the child must respond, can be asked in the vernacular language, whenever the aforementioned godfather is ignorant of Latin; or whether, at least, the question, as prescribed by the Rituale, made in Latin, can immediately be translated into the vulgar tongue?

II. It often happens that some adult, born of Catholic parents, and instructed in the Catholic faith, and entirely removed from any sect or im-

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pious deviation, must be baptized, either because the parents, through negligence, did not have the child baptized, or because there remains a probable doubt about the validity of the Baptism. Whether, in such a case, the order of Baptism for infants, placed first in the Rituale, should be used, or rather, the order of Baptism for adults? And, in order that the order of Baptism for adults should be used, whether the admonitions: "Horrible sunt idola, etc.," but also the "Cole Deum" and the prayer that follows: "Te deprecor," can be omitted, as the Roman Rituale, while prescribing the use of the stole in the administration of the Sacraments, adds: "unless the administration of the Sacrament of Penance, or custom, or the place, sometimes suggests otherwise," and elsewhere the same Rituale states: "a stole of violet color should be used, as the time or custom of the place may suggest."

III. Whether a Canon, having the use of the rochet and cope, or mozzetta, is obliged to put off these insignia and to put on the surplice: 1. When administering Holy Communion to the faithful outside of Mass. 2. When celebrating a marriage. 3. When imparting the nuptial blessing, if it is ever given outside of Mass. 4. In every blessing given outside of Mass.

V. Whether a priest can use a white alb with a stole worn across the chest, in the aforementioned cases, especially when celebrating marriages immediately after the completion of the marriage rite, and before celebrating Mass for the bride and groom?

5. C. after hearing the opinion of the Master of Ceremonies, considered it advisable to respond: To I. Negatively, in both cases, according to the Decree in Molinau, on the 12th of September, 1857, at 17 (I).

III. Whether the custom of the minister to use the stole, even in the church and at the altar, should be followed?

(i) This Decree will be found in Fol. III, Appendix XII.

[*Latin ed. p. 63*]

I. The Church should use the stole according to the decrees of the Holy Roman Pontiff. Regarding IV: The sacraments are to be administered with the cotta and stole, having laid aside the cope or mozzetta; however, the collarette may be worn over the rochet, and therefore, regarding the first question, the answer is affirmative; regarding the second, likewise affirmative; regarding the third, the nuptial blessing cannot be given outside of Mass, and therefore, there is no doubt regarding this matter; regarding the fourth, the answer is affirmative.

V. If Mass immediately follows, the priest, besides the alb and stole, must also wear the planeta. And thus it was written, and it was commanded to be observed. August 31, 1867. COMPOSTELLANA. In almost all the cathedral churches of Hispaniae, after the solemn Concordat of the year 1851 between the Holy See and the Queen, in which, besides the canons, beneficed

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clergy were established in place of the former portiarii, and are substituted for them, these beneficed clergy serve in the ministry of deacon and subdeacon in the conventual Masses celebrated by the canons. Indeed, when His Eminence and Lordship, Michael Garcia Cuesta, Archbishop of COMPOSTELLANA, requested from the Sacred Congregation of Rites: Whether this custom should be maintained in Hispaniae, or whether the canons, at least on the feasts of the first class, should serve in the office of deacon and subdeacon, the Sacred Congregation, after hearing the opinion of the Master of Ceremonies, declared: That the custom whereby two beneficed clergy serve in the ministry of deacon and subdeacon in Masses celebrated by the canons, can safely be maintained; however, if there is any dignity present in the cathedral church, such as an archpriest, archdeacon, etc., it is fitting that, whenever that dignity is to celebrate a solemn Mass, the office of deacon and subdeacon should be exercised not by the beneficed clergy, but by the canons. August 31, 1867. COMPOSTELLANA. In the cathedral churches of Hispaniae, it is commonly sung in the ambo, or pulpit, during the celebration of the sacred solemnities: the subdeacon, therefore, does not hold the book in the meantime. Indeed, after the singing of the Gospel, some believe that the deacon should hand the book to the subdeacon, so that he may offer it to the priest for a kiss; others, however, believe that the subdeacon should take the book himself, without it being handed to him by the deacon, especially in a pulpit that is sufficiently large and spacious. Now, in the metropolitan church of COMPOSTELLANA, the first custom was observed, which, although true, was declared by His Eminence and Lordship, Michael Garcia Cuesta, Archbishop of COMPOSTELLANA, by decree, not to be obligatory: due to this variety of opinions, a not insignificant disagreement arose, and the same eminent man requested the Sacred Congregation of Rites to declare what should be done in this case. The Sacred Congregation, after hearing the opinion...

[*Latin ed. p. 64*]

64. The Master of Ceremonies deemed it necessary to write concerning the matter: The custom must be observed. And thus he wrote, and commanded that it be observed in the Metropolitan Church of Compostellana. August 31, 1867. MALACITANA. The Master of Ceremonies of the Cathedral Church of Malacitana, humbly requested a solution to the following doubts from the Sacred Congregation of Rites: I. Whether the preacher ought to ask for a blessing from the celebrant within the Mass on the weekdays of Lent, or not; since it is not stated in Index i. ex Coeremoniali Episcoporum, although it is the custom and practice that a blessing is not requested within the Mass on the fourth day of Lent, unless by the present proper Bishop? II. Whether the sacred ministers may use the dalmatic? on Sundays of Advent and Lent in churches where the Most Holy Sacrament of the Eucharist is exposed for the veneration of the faithful, in order to gain

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the Jubilee, which is called the Forty Hours? The Sacred Congregation responded: No. And thus it responded, and commanded that it be observed. August 31, 1867.

[*Latin ed. p. 65*]

65. FROM S., CONGREGATION OF THE COUNCIL. ON MARRIAGE. May 2nd and August 29th, 1868. A summary of the facts. Livius, a young man of the Greek-schismatic persuasion, son of Horatius of the same religious sect, born in the Cattolica nation, is said to have begun to love Caiam, a young Catholic woman, among some of the colonists of Fondi, who, despite her humble origins, surpassed all others in beauty. Horatius, the father, a very wealthy man, called the young woman to his house to serve in the family. This was the opportunity in which Livius' love grew strongly, although it is said that Caiam, due to the disparity in their condition and religion, and also because of Horatius' opposition, did not fully reciprocate Livius' affection. However, through the familiar intercourse, in which Horatius himself was seen to be very much in love, it happened that, after Livius had made a marriage promise to Caiam on more than one occasion, the woman consented to the act. Horatius, fearing that his son, of whom he had great expectations, would join himself to an unworthy girl in marriage, threatened that he would send him to Egypt and would reject Caiam and her family from his estate. Such threats from the father, who is said to be steadfast in his purpose, were intended to dissuade Livius, and he began to devise a plan, suggested by others, which he revealed to Caiam: namely, to arrange a marriage between Caiam and a certain servant, N., in a manner that would fulfill all external formalities, but in such a way that the marriage would never be consummated, and Caiam would remain with Livius. Although reluctant, Caiam is said to have consented to this plan; therefore, after consultations with the servant N., who received a payment, the marriage was celebrated in the year 1851 before the Church, between Caiam and the servant N. Acts, Vol. IV, page XXXVIII, 5.

[*Latin ed. p. 66*]

66. MARRIAGES. While the marriage was being celebrated in the temple, a carriage was prepared before the temple doors. Caia and her companions, with the exception of the servant N., then entered and proceeded to a certain villa; the servant N., however, departed for Rome, and subsequently traveled to many distant cities, ostensibly conducting business for the Horatii family, finally returning to the region of Caia from which he had departed in the year 1860. The servant N. received from Livius 100 letters each month, which in the year 1863, due to a torn document, were supplemented with 50 additional letters. The title for which these letters were paid by Livius is expressed in a second document as follows: "in compensationem servitiorum praestitorum ab anno 1854." While Caia

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remained with Livius, three sons were born from this union in the years 1856, 1858, and 1861, and these were recorded in the parish registers as sons born to Caia and the servant N. However, the reason why these sons were recorded in the parish registers as sons of the servant N., who was far away, is that, being attached to the Horatii family, he, in the name of the absent servant N., received these infants at the sacred font. Nevertheless, these sons of Caia were, not as sons of the servant N., but as sons of Livius, regarded by all, and they are treated as sons of Livius, whose care includes their instruction in the doctrines of the Catholic faith and in liberal arts. For many years, this common life was publicly maintained as if it were legitimate, and indeed, it was strengthened daily by a closer bond, especially in a certain village, where they finally established a home. However, in order to address the concerns of conscience and to protect the condition of the children, Livius, as he himself stated, desired to obtain a declaration of nullity of the marriage between Caia and the servant N., so that he and Caia might depart from the existing state. This desire was finally put into action, with a request made to the Most Holy Father for a judgment of nullity of the marriage due to a lack of necessary consent and due to conditions that were added. Furthermore, it was requested that, in addition to the doubt regarding the validity of the marriage, another doubt be added regarding a dispensation from a marriage that was valid but not consummated. The Most Holy Father referred these requests to the Sacred Congregation of the Council, which, as is customary, referred them to the Ordinary, in order to prepare a *Procès* [legal proceedings].

[*Latin ed. p. 67*]

OF MARRIAGES. 67, whether concerning alleged nullity, or concerning the lack of consummation, and concerning the causes for dispensation, the canonical form, and the Constitution of Benedict XIV, should be observed; and, by the mercy of God, the Sacred Congregation should be informed of the outcome, and the process itself should be transmitted in authentic form. The Ordinary, having transmitted the process in authentic form, explained the causes for the dispensation, which were to be considered if the matter was to be resolved according to the doubt; and furthermore, he noted that all the witnesses heard in the process were worthy of belief, although other witnesses could have been heard, whom he deliberately omitted. From the process, the matters which I have summarized above were taken, and which will be explained more fully in the following discussion. Summary discussion. Everyone can easily see that the entire question revolves around the fact; for in law, it is certain that a marriage without true consent is not a marriage; therefore, the solution to the first doubt depends on the question of whether there was a simulated consent, or at least whether there were conditions attached that were contrary to the essence of marriage. DEFENSE OF CAIA. — The advocate for Caia, noting

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the well-known doctrine that marriage consists solely of consent (provided that the form prescribed by the Church is observed), according to the text in chapter 14 of the book "De Sponsis," where Alexander II decreed: "Marriage... is contracted solely by consent," and with the authority of Doctors, pointed out that not any consent is sufficient for it to be contracted, but that a free and true consent is required. And to the point, he cited the text in chapter "Tua nos, de Sponsalibus," in which Innocent III, in a case in which a certain man was said to have given a simulated consent, responded in this way: "But we, writing what is the law, say that, if the matter is so, namely, that he did not propose 'to take her as his wife,' nor ever consented to the aforementioned person, then no marriage should be judged to have resulted from that act, because in it neither the substance of the conjugal contract, nor the form of contracting marriage, can be found: because, on the one hand, there was only deceit, and, on the other hand, there was absolutely no consent, without which the other things cannot perfect the conjugal bond.") Furthermore, the advocate added, Caia never intended to marry the slave N., as the witnesses testified, between Caia and the slave N.

[*Latin ed. p. 68*]

G8 OF MARRIAGES. The advocate, residing in the house of Horatius, maintained that there had not only been a lack of love, but rather aversion, between the parties; and, conversely, that Gaius and Livius were motivated by affection. Regarding the cause for entering into a fictitious marriage, the advocate argued that it was nothing other than paternal anger, since Horatius had been unwilling to allow his son to marry Gaius, although they consented to living together in his house without the bond of marriage. He demonstrated that the intention was to provide Gaius with a fictitious husband, so that, under the guise of a marriage contracted with another, the paternal anger might be appeased; and thus, Gaius remaining free, the time would arrive when, the nullity of the simulated marriage being demonstrated, Livius and Gaius could contract a true marriage; and that the public opinion was that this marriage had been entered into for the purpose of appeasing paternal anger. To support this simulation, the advocate presented conditions attached to the marriage, one of which was that, upon the marriage being contracted, the slave N. would be freed and would never use the privileges of marriage; the other was that the girl would remain in Livius' household. These conditions, he stated, were jointly drafted and included in the first document in which a perpetual pension was stipulated in favor of the slave N., so that he might appear to be a husband. Indeed, even if the simulated consent were not demonstrated, such conditions would already render the marriage invalid, according to a well-known passage in chapter 7 of the Decretals, where Gregory IX declared: "If conditions are inserted that are contrary to the essence of marriage, for example, if

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one says to the other: 'I will marry you if you avoid having children,' or 'until I find someone else who is superior to you in honor or wealth,' or 'if you will commit adultery for my gain,' then the marriage contract, however favorable it may be, is without effect." The learned Doctors elaborate on this passage. The advocate also did not overlook the question that arises when it is contended whether the marital consent was given under any condition: namely, whether the condition must be expressed in the act of marriage, or whether it is sufficient that it be seriously expressed and established beforehand.

[*Latin ed. p. 69*]

MATRIMONIES. 69 *ractum. He, however, citing the teaching of Piton in *Disceptatio Ecclesiastica*, 58, n. 12 and following, maintained that it suffices that a condition be established seriously before the contract, especially if the conditions in question are such that they could not be knowingly accepted without insanity, and that the acts following should be understood to correspond to the conditions stipulated. The Orator, proceeding to the second doubt, clearly demonstrated that the marriage in question had never been consummated; and he maintained that reasons for a dispensation regarding a valid but unconsummated marriage were present, such as the danger to souls, the legitimization of offspring, and hereditary succession, etc. DEFENSE OF THE MARRIAGE. — In the first proposition of the cause, the Defender of the marriage was entirely focused on undermining both the statements of the witnesses and the authority of the witnesses, and, considering the circumstances that preceded the marriage, those that were concurrent, and those that followed, he sought to demonstrate that there was no proof of a simulated marriage. He therefore maintained that the judicial confessions of the servant N. and of Caia should be excluded, both because the confessions of spouses are to be considered of little value against the validity of the marriage, and because they were made in order to expose their own wickedness in this case. The Defender reduced the remaining witnesses to six, but he sought to undermine their testimonies by asserting that, with the exception of one witness, all the witnesses were relying on hearsay. He sought to undermine the authority of the witness whom he had excluded from this point, because he described himself as a counselor and, indeed, the author of all that had been done in relation to the marriage in question; therefore, he argued that he did not deserve to be believed in court, since he presented himself as capable of such wickedness. Therefore, he affirmed that there was a lack of full proof, which would be necessary to demonstrate a simulated marriage. Even more so, because he himself found some contradictory statements made by the witnesses. Since, therefore, the marriage had been contracted with all the required formalities, and with the consent of both spouses before the Parish Priest, he concluded that one must stand by the validity of the marriage. But con-

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sidering the conditions that were attached to the marriage, he noted the following: the conditions imposed on the servant were that he should never have Caia as his wife, and that he should leave at the sound of the clock.

[*Latin ed. p. 70*]

70. MARRIAGES. Where Caia resided, etc. Documents were presented, in which L. obligated himself to pay the servant N. 100 livres annually; however, such a document was not presented, but another was shown, in which, in the year 1863, the pension was increased to 150 livres monthly, and in which no other reason for this payment was given than for services rendered. Furthermore, when it is a question of conditions that are demonstrated to be attached to the marriage contract, which affect the very substance of the consent, it was contended that it is not sufficient that these conditions were discussed beforehand, but that they must be appended and expressed in the very act of the marriage contract itself; which is expressly confirmed by the authority of Piton, *Discept. eccles.* 552, n. 41 and following, where the author wrote: "With this premise, I say that, setting aside the ancient law of the sacred canons, if the marriage in question was purely celebrated before the Parish Priest and witnesses, through words of the present tense without any condition, the Church ought to declare it to have been a contract; because, since marriage today must be celebrated in its presence, according to the decrees of Trident, whatever was not said before it, does not pertain to the nature of the matter, nor does a condition retained in the mind have any effect. Nor can a preamble to the treaty, or a protestation, be admitted; because such a condition ought to have been explained publicly, and openly before the Church, namely, before the Parish Priest and witnesses... and even if the contracting parties should have agreed among themselves beforehand under a condition, they ought still to be considered to have withdrawn from it in the act of marriage, from which they declared before the Parish Priest and witnesses a pure consent; and those who confess the contrary, namely, that they remained in their original will, do not deserve to be heard, and in this, the saying of the Glossary in cap. *Tua nos de spons.*, in the words *Mulierem*, is applied: 'If she says that she was still in that will at the time of the contract, she is not believed.' And if the conditions attached before the marriage are not to be taken into consideration, when the marriage is purely contracted before the Church, all the less should they be taken into consideration, the Defender contended, in the present case, since it was stated in court that the agreements between Caia and the servant N. were initiated before the marriage, with no witness present.

[*Latin ed. p. 71*]

MARRIAGES. 71 Having considered these and other points, another question arose which needed to be addressed; but let this suffice for now,

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since the principal question revolved around the first doubt. DEFENSE OF MARRIAGE IN THE SECOND PROPOSITION OF THE CAUSE. — In the first proposition of the cause, the Sacred Congregation resolved the first doubt in favor of the woman; therefore, the Defender of the Marriage, according to the Constitution of Benedict XIV, and by the mercy of God, undertook to examine the case again with greater diligence, arguing in favor of the validity of the marriage. The Defender, quoting the words of the Glossary in Chapter 12 of Saint Augustine's *De Sponsibus*, under the word "Mulier," where it is written: "But suppose that someone is protected before many people, so that everything he says and does will not be considered as being done with the intention of contracting marriage, and afterwards he says publicly: 'Do you consent?' Is this a marriage or not?" In this case, I say that the Church ought to judge in favor of the marriage, because recourse must be had to the common understanding of words; for such words cannot serve their intended purpose; therefore, if it is proven that she protested, she could first have expressed that protest, and then later withdraw from that intention and consent to the marriage, and this is evident from what she subsequently did publicly; and if she says that at that time she was of the same mind, she is not to be believed, because the interpretation must be made against him who introduces doubt, etc." The Defender observed that these words have greater force after the Council of Trent, which prescribed a form for contracting marriage in order to prevent fraud. Furthermore, it is not to be believed in the spouses when they speak of the nullity of the marriage, even if they confirm it with an oath, as Berardi teaches in Dissertation VII, on the dissolution of marriage, chapter 1, where he wrote: "The spontaneous confession of the parties, or spouses, even if confirmed by an oath in this matter, is by no means sufficient, unless other very serious evidence is present. For although it is true that, sometimes, from the confession of one spouse, a marriage, concerning whose validity there is a dispute, may exist... nevertheless, I do not know of any case in which a marriage could be dissolved by a similar confession of the spouses, unless other arguments are present to demonstrate the truth... " The Defender concluded, "Therefore, we must be more inclined to render a judgment in favor of a marriage once contracted, than we are to dissolve a marriage."

[*Latin ed. p. 72*]

72. MARRIAGES. Now, Caia was questioned: Were the conditions made with servant N. regarding the marriage between them and the continuation of living with Livius known to others? She replied: No one was present, and whether anyone knew about it, I cannot say. Furthermore, servant N. was questioned: Were others present during those conditions? He replied: No one else was present. Moreover, these kinds of confessions contradicted the testimony of the principal witness, who, as advisor and representative

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of the transaction, when questioned: "Did you hear the conditions, which were agreed upon between those who were marrying," replied: "Not only did I hear them agreeing to those conditions, but I myself intervened and cooperated to help them reach an agreement." Thus, you do not know who to believe. This, indeed, confirmed the purpose for which the marriage was contracted: for it appeared from the entire series of events that it was contracted in order to make marriage between Livius and Caia impossible, and thus to appease the anger of Livius' father, who threatened very severe punishments; and that the father himself had consented to the marriage willingly, in order to remove the danger of marriage between his son and Caia. However, such a purpose would not have been achieved if conditions contrary to the substance of the marriage had been imposed, or if a simulated consent had been given. Moreover, such conditions would not have been unknown to Livius' father, since servant N. testified in court that a document, containing the conditions adverse to the marriage, and stating that a monthly pension of 100 livres was paid, had been signed not only by Livius, but also by Livius' father. Nor could Livius and Caia have obtained what they claim to have desired: for if the matter had been of a fictitious marriage, so that Caia would remain free to marry Livius later, all precautions would have been taken to ensure that open proof of the nullity of the marriage could be readily available. However, Caia and servant N. stated that no one was present at the time when those agreements were made between them. Therefore, the Defender concluded, the marriage entered into between servant N. and Caia was not fictitious, but real; yet, in such a way that if servant N. exercised marital rights with Caia,

[*Latin ed. p. 73*]

MARRIAGES. 73. Indeed, if he were to return to the region where Caia resided, he would immediately lose his monthly pension. However, this deplorable condition did not deprive the servant N. of his marital rights, but rather, it prevented him from exercising those rights without losing his pension. This, he affirmed, was the reason why the servant N. was acquired and chosen, because he had been judged more suitable, who, through the force of money, would abstain from marital rights, just as Livius himself had done in a legal agreement. And the Defender argued that this was the reason why the monthly pension of 100 livres, stipulated in 1851, was paid to the servant N. until 1863, because he was claiming marital rights. Therefore, from the entire series of events, not a fictitious marriage was demonstrated, but everything presented as evidence of a fictitious marriage, showed nothing other than concubinage, since the servant N., having acquired marital rights, promised Livius and his father that he would not exercise those rights, and that he would leave Caia in Livius's care.

WHAT THE ADVOCATE FOR CAIA WAS ARGUING. — The Advocate for Caia, who had secured the victory, immediately noticed that the

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Defender of the marriage, in the heat of the dispute, had, while trying to avoid Charybdis, fallen into Scilla: for the Defender of the marriage, while striving to demonstrate that the marriage was not fictitious but true, conceded, and indeed demonstrated, that the servant N. had entered into an agreement under the condition that Caia would surrender herself to adultery, even though the Defender asserted that the servant had reserved marital rights for himself: but since this condition is contrary to the essence of marriage, the marriage itself was null. The Advocate confirmed this, citing a series of Doctors. Moreover, since the Advocate for Caia would not concede the first point, but presented further testimonies of witnesses, he again demonstrated that the marriage had been falsely celebrated: it did not matter whether Horatius, Livius's father, a Greek, knew that the marriage had been falsely celebrated, for it was sufficient that he believed that the marriage could not be dissolved, but Livius knew that the fictitious marriage was null, and that a clear path remained open for him to eventually unite Caia in marriage, which was also demonstrated by further testimonies.

[*Latin ed. p. 74*]

74. MARRIAGES. Finally, reiterating the argument against the Defender, he stated that a marriage contracted under a condition that is contrary to the essence of marriage is null, because it is a fictitious marriage; for those contracting marriage with conditions contrary to the essence of marriage do not intend to contract a true marriage, which he confirmed with a series of Doctors. Therefore, even if it were said that a true marriage was contracted under a condition contrary to its essence, it would always have been a fictitious marriage. With these and other matters extensively debated, the following propositions were to be resolved by Stallia: I. "Whether the nullity of a marriage is established in this case?" or rather, II. "Whether it is necessary to consult the Most Holy [See] for a dispensation regarding a marriage that has been consummated in this case."

RESOLUTION. – The Holy Congregation of the Council, on May 2, 1868, in the first proposition of the case, responded: to I, affirmatively; to II, provision is made in the first. In the second proposition of the case, with the formulas for doubting presented: I. "Whether one should adhere to or depart from the decisions in the first doubt in this case?" II. "Whether one should adhere to or depart in the second doubt in this case?" on August 29, 1868, it responded: in the decisions.

FROM WHICH ONE MAY GATHER: I. That a marriage celebrated in such a way that a woman becomes the wife of one, but in fact uses herself with another, is null. II. That this can be understood in two senses, either in the sense that the parties contract a marriage in jest, so that neither the man nor the woman has the intention of celebrating a marriage; or in the sense that both have the intention of celebrating a marriage under

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the condition that the woman would give herself to adultery. III. That a marriage accepted in either sense is null, because in the first case, explicit marital consent is lacking; in the second case, the intention of contracting a true marriage implicitly fails, whose essence is that two become one flesh. IV. In the present case, it is certain that a marriage was celebrated in one sense or the other, based on the entire series of acts.

[*Latin ed. p. 75*]

OF MARRIAGES. 75. You will finally understand that, although the conditions under which marriage is said to be contracted must be expressed in the very act of celebration, so that they may be considered in the external forum, it is possible that there are cases in which the actual intention of the contracting parties can be determined from elsewhere (1). (i) Both speakers in the present case cited the authority of the celebrated Pitonius in their favor; however, the following observations regarding Pitonius's opinion are necessary. Pitonius first wrote on this matter in *Disputationes Ecclesiae*, 52, n. 40 and following. There, with a certain ambiguity, he seems to confuse two questions: the first is whether, in the external forum, protestations, agreements, or, in a word, the conditions under which spouses agree to contract marriage, should be considered, if, subsequently, the words of the marriage contract are pronounced before the Church without any condition; the second is whether a consensus absolutely expressed before the Church can be null because of a condition understood but not expressed in the act of celebration. In the aforementioned *Disputationes*, Pitonius resolves the first question negatively, and he urges this negation so strongly that he seems to believe that it is impossible, in the present matrimonial discipline, for a consensus purely or absolutely expressed before the Church to be null because of a condition retained in the mind during the act of celebration. Certainly, Pitonius exaggerates the matter, but he expressly stated in the same *Disputationes*, 58, at the *end*, that he had said all these things in the manner of raising a doubt, not of deciding, so that, if the opportunity arises, the matter may be better examined. However, if the reasons that Pitonius adduced in that *Disputationes* are separated from those that relate to the second question, they seem valid to me, and I have presented them in this way in Appendix XL, page 376, in Volume I. Nevertheless, Pitonius himself, while appearing to deny even the second question, tempered this same, harsh opinion in *Disputationes Ecclesiae*, 58, by distinguishing various cases, the third of which is "where the parties intend to contract a fictitious marriage," of which there is prior knowledge through an agreement made for an honest cause, and then they contract through words expressing true consent before the priest and witnesses, who are ignorant of this pretense in the fictitious marriage. And in such a case, no one has ever doubted that the marriage is null, for this reason, that the Church cannot do what would make a fictitious consent be con-

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sidered as true, or that a consent given in a fictitious marriage and actually simulated would constitute it valid and true. Here, however, Pitonius failed to notice that, if a fictitious consent, which is hidden in the minds of the contracting parties, renders the marriage null because the Church cannot make a fictitious consent be considered as true, it can also render a conditional consent null, which is hidden in the minds of the contracting parties, since the Church cannot make a conditional consent be considered as absolute consent. Therefore, such a question is rather a question of fact than of law. I say rather a question of fact; for there is also a question of law: which legal question is reduced to this: whether, in general, conditional agreements preceding a marriage that is absolutely contracted before the Church should be admitted in court as an argument of nullity. On this matter, I recall what I have presented in the aforementioned Appendix, related on page 371, in Volume I.

[*Latin ed. p. 76*]

76. PENSIONS. On June 11, 1868. Summary of the case. In the chapter of the cathedral church of N., there exists the dignity of Primicerius. Bishops have customarily conferred this dignity, imposing on the said Primicerius the obligation of paying an annual pension of 20 scudi, provided by one of the canons of the same cathedral. Furthermore, those who have received this pension have been the Deans of the same chapter. In the year 1864, the holder of this dignity died; and the Bishop conferred the same dignity upon Francis N., and episcopal bulls were issued with the obligation of paying said annual pension, provided by Canon B. However, it happened that Dean B. died before Francis was installed in the possession of the dignity. Therefore, John, the successor in the Deanery, believing that the pension was due to the Dean according to custom, demanded it from Francis, who refused to pay. Then, in order to protect his own rights and those of his successors, the Dean issued a protest, stating that his rights were being violated. Subsequently, he petitioned the Sacred Congregation, so that such a controversy might be resolved according to the laws. The Ordinary, being asked to inform the Sacred Congregation about the matter and to express his opinion, among other things, stated that his predecessors, many years ago, had customarily offered this dignity to the Canon Dean. Canon Deans who refused such a dignity obtained the pension imposed upon the new Primicerius; this is evidenced by four or five instances in which Deans have received this pension. In the last instance, Dean B., refusing the offered dignity of Primicerius, obtained the said pension, but scarcely had the new Primicerius obtained the bulls when Dean B. died. Then, the new Dean, John, demanded the pension, especially because the Primicerius had not yet been installed in possession, etc. Disputed matter. DEFENSE OF THE PRIMICERIUS. — When the new Dean insisted on claiming the pension,

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which he considered due to him according to custom, according to...

[*Latin ed. p. 77*]

PENSION. 77. Concerning the pension, the Canon Regulars had been accustomed to receive, the Primicerius initially sought to demonstrate the lack of validity of this custom, especially on the grounds that the acts of granting, which had been used by some Bishops in assigning the pension, could not constitute a custom favorable to the Dean. However, the Primicerius rightly observed that, even if a custom existed whereby the pension was regularly paid to the Dean, it remained to be proven that, with the pension reserved for the Dean, the same reservation should also be considered to apply to the successor in the Deanery; but this was not only not demonstrated to the contrary, but was entirely false, since such an assertion contradicted both law and fact: for it is a well-known principle of law that a pension is extinguished by the death of the pensioner; and in fact, the very Bullae stipulated that the pension was to be paid by him until the Dean B. enjoyed life. DEFENSE OF THE DEAN. The advocate of the new Dean strongly argued to demonstrate the existence of a long-standing custom that had been denied, especially on the grounds that Bishops cannot, by ordinary law, impose pensions when granting benefices, since this is opposed by the universal canonical law: that benefices should be conferred without diminution, as stated by Mandosius, De Signat. Grat., §. pen. n. 7 and extinct. n. 3. Therefore, if Bishops in the diocese of N. were able to do this, it could only be attributed to a long-standing custom, which, as is commonly said, provides a better title in the world. And so, he insisted on proving this custom by means of three successive acts from the year 1791 to the year 1830, in which a pension was granted in favor of the Deans. The new Dean did not contend that the granting of the Dignity to Francisco was an obstacle to the payment of the pension before he himself enjoyed the Deanery; for, furthermore, Francisco had not been invested with the possession of the Dignity; although, of course, this could not be attributed to any fault of Francis, who did not immediately take possession because the Bullae had to be provided with the Royal seal. After these and other arguments were presented, the purpose was to resolve the doubt: "Is there a basis for the payment of a pension in this case?" RESOLUTION. The Sacred Congregation of the Council, having knowledge of the matter on July 1, 1868, decided to respond: negatively.

[*Latin ed. p. 78*]

78. OF PENSIONS. FROM WHICH YOU WILL GATHER: I. Although a general law exists that Benefices should be conferred without diminution, nevertheless Bishops can impose pensions upon the collation of Benefices (1).* II. The Beneficiary who is burdened with a pension is only to be burdened to the extent that it is legitimately prescribed in the collation Bulls.

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III. It was the case that a Dignitary was burdened with a pension for the life of the living Dean, and therefore, upon the Dean's death, the burden ceased by that very fact. IV. It makes no difference whether the burden ceased before the Dignitary took possession of the dignity, so that he felt no burden: for by possession, the collation Bulls, which make the law itself, are not changed.

OF PAROCHIAL GOODS. May 2, 1868. In the diocese of N., two parish churches, distinct and independent from each other at the beginning of the sixteenth century, were united over time (it is unknown* how), so that the Parish Priest of church A governed both parishes with the help of a Chaplain, removable at his discretion and with a small salary, who would perform the duties of the Parish Priest in church B. Since this union gave rise to several and serious inconveniences, in order to remedy them, in the year 1779, the Bishop of that time (i) Bishops generally impose pensions upon the collation of Benefices: such pensions, which are imposed by Bishops, cannot be considered as real burdens imposed upon the Benefice, but must be considered as personal burdens imposed upon the Beneficiary: and therefore, Bishops generally cannot impose perpetual pensions, for example, for the benefit of some college which never dies, or, as in the case in question, for the benefit of the Praebend of the Deanery. Such pensions would not only burden the Beneficiary but the Benefice itself, and it would be as if a portion of the Benefice were being taken, which, contrary to the principle that Benefices should be conferred without diminution, Bishops, by their ordinary authority, generally cannot do.

[*Latin ed. p. 79*]

OF PAROCHIAL GOODS. 79. During the Visitation, a decree was issued, by virtue of which, in the event of danger, a chaplain, for the care of souls, was to be approved by the Ordinary, and could not be removed except with the consent of this [Visitation]. Furthermore, several properties, previously belonging to the parish priest, were assigned to [the church]. But since it did not seem that this decree had removed all inconveniences, the parishioners of the church of B. at the beginning of this century, petitioned the Sacred Congregation concerning the division of these two churches, and the church of B. was restored to independent care of souls. Graciously, the Most Holy [Father] granted a Rescript on October 1, 1802, concerning the division to be made at the discretion of the Ordinary, so that a permanent parish priest would be established in the church of B., to be chosen according to the form of the Council of Trent, with the assignment of the respective properties for his support, taking into particular consideration the ancient division. The Bishop immediately ordered the execution of the Rescript with a decree issued from this time forward, in which he assigned to the parish priest of the church of B. not only all the goods and revenues mentioned in the decree of 1779, but also a new property called "Le Case

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bruciate," and the right to collect a certain canon. According to this decree, things appeared to have proceeded peacefully until the year 1866, when the parish priest of the church of B., taking advantage of the vacancy of the church of A, presented a suppliant petition to the Sacred Congregation, in which he stated, not for any other reason than out of a sense of duty, that the property called "7 fornello" had belonged to the parish of B. from the beginning, and that he sought to prove this from an inventory of the year 1549, and from a common tradition that originated from the same inventory; furthermore, he seemed to imply that, in the execution of the Apostolic Rescript, this clause had not been observed at all, since the Rescript required that the assignment of properties be made taking into consideration the ancient division. In addition to these petitions, as is customary, the Bishop was requested to express his opinion in writing, after having heard the appointed administrator of the vacant church of A. The administrator transmitted his allegations to the Sacred Congregation. In these allegations, the administrator briefly refuted the two points presented by the parish priest of B., noting that, in the execution of the Rescript, it was explicitly declared that...

[*Latin ed. p. 80*]

80. CONCERNING PAROCHIAL PROPERTY. It has been ascertained that information regarding this matter was obtained before the division of the parishes took place, and that the respective revenues were assigned to each: therefore, it is to be presumed that the arguments presented at that time were insufficient to demonstrate the ownership of the aforementioned property, located in Fornello, in favor of the church of B. Furthermore, it was noted that, in the petitions presented by the parishioners of B. to the Holy See at that time, it was indeed requested that the property known as "Le Case bruciate" and the canon mentioned above be granted, but not a single word was mentioned concerning the property in Fornello: from which it is argued that the aforementioned Curator did not oppose the tradition mentioned above. Finally, whatever may have been the case, the prescription in favor of the church of A. is more than forty years old; indeed, even if it could be proven that the property in Fornello belonged to the church of B, it would not, nevertheless, seem to be subject to restitution, due to the clause in the Rescript, namely, considering the ancient division, which appears rather to indicate the proportion to be observed in the division of the assets, than to apply to all and each individual item, precisely in the manner in which things stood before the union.

RESCRIPT. These petitions presented to the Sacred Congregation of the Council on May 2, 1868, were dismissed with a negative response, according to the usual clause; as explained above, it was read.

FROM WHICH ONE MAY GATHER: Questions concerning the rights and assets of parishes, when they lack their proper Rector, are not to be

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decided without appointing a defender ex officio, who will undertake the defense of the vacant parish (1).

(i) This is expressly established by canon law, as can be seen in Chapter 1 concerning ecclesiastical matters not pertaining to the parish, in section 6.

[*Latin ed. p. 81*]

81 FROM S, CONCERNING THE DISTURBANCE AMONG BISHOPS AND REGULARS, REGARDING COMPLAINTS AGAINST THE BISHOP'S DISPOSITIONS. February 7th and May 15th, 1868. Summary of the matter. The Reverend Father N., most worthy of veneration, founded various institutions of piety and charity in his diocese, namely, a community of women dedicated to serving the sick, an orphanage for both boys and girls, an institution of perpetual adoration before the Most Holy Sacrament, an institution of perseverance, a congregation of farmers, etc. After having established these various pious institutions, he conceived the idea of establishing a congregation of priests who would undertake the task of directing these pious institutions and of preaching in diocesan missions. For this purpose, the aforementioned Reverend Father N. associated himself with two priests, who, with the permission of the Bishop, relinquished their parochial duties (for they were vicars-parish priests) and, under the direction of the same Reverend Father, devoted themselves to these said pious works and to diocesan missions; in this way, the diocesan missions were also seen to revive in that diocese, according to the custom of those regions. The same Bishop of that time, encouraging these priests, who are called Missionary Adorers, communicated on December 13th, 1856, a certain approval of the rules of this small congregation. These rules state: "The congregation has set for itself the purpose of, through missions, making Jesus Christ known and adored, and of taking charge of the pious institutions which were founded by the Reverend Father N." These priests will add to these works all those works which the same Bishop may entrust to them, who is the first Superior of them, to whom they will render greater obedience and obedience than to other priests. Acts, vol. I, p. 38.

[*Latin ed. p. 82*]

82. REGARDING OBJECTIONS CONCERNING THE BISHOP'S DISPOSITIONS. "The Superior of the Congregation, immediately subject to the Bishop, is chosen by the Bishop from among the priests of the Congregation. "Each member of the Congregation shall be supported throughout the entirety of his life by the expenses of the community; therefore, the priests renounce all stipends. "The resources of the Congregation consist in various revenues, which the Congregation itself possesses, in alms for Masses, and in proceeds from sermons; if these revenues are insufficient,

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pious institutions founded by the aforementioned Priest N. will provide assistance, according to the Apostle's words: 'If we have sown spiritual things for you, it is a great thing if we reap carnal things.' "Only priests who are irreproachable in every respect, and suitable for proclaiming the Word of God in a fitting manner, shall be admitted into the society. "The priests, after a year of novitiate, shall make a vow of stability in the Congregation; however, the period of novitiate may also be limited by the Bishop. "Such an order of regulations was chosen by the Bishop of that time, who confirmed these regulations with these words and affixed his seal to them: 'Seen and approved, so that, with the help of divine grace, they may be observed by the priests of the diocesan mission.' On December 13, 1856. After the pious Priest N. died on May 4, 1857, another priest was admitted into the Congregation in the same year, so that there were three members of the Congregation, whom we will indicate by the letters A, B, and C. These three members were said to have devoted all their efforts to fulfilling the purpose of their institution, and their labors did not cease, as they gathered happy fruits in the diocesan missions. But, in addition to the ministry of missions and the administration of the Sacraments, there were two particular pious works in which they were especially engaged; that is, in promoting the pious institution of adoration before the Most Holy Sacrament in the public chapel of the aforementioned community of women, who were infirm (which chapel was said to belong to the Congregation of priests), to which the faithful flocked to adore the Most Holy Sacrament, and to participate in the pious exercises which were led by the aforementioned priests who were adorers. They were also engaged in promoting the aforementioned pious institution of Perseverance (which, precisely, I do not know in what it consisted), which was directed primarily to..."

[*Latin ed. p. 83*]

CONCERNING OBJECTIONS. AGAINST THE BISHOP'S DISPOSITIONS. 83 they would be exposed to public gatherings and dangers; and therefore, a certain part of the house was established, where those devoted to the Institute of Perseverance would meet in the evenings to converse honorably until late at night; and there would be present Jude, the reading of good books, refreshments, etc. This gathering was called the circle of young people, which was closed with certain prayers and acts of piety. Among these pious institutions, the community of women serving the sick flourished greatly, so that, when the Founder died, there were eighty sisters, but now there are as many as four hundred; and more than twenty communities have been established in eight dioceses, preserving the spirit of virtue of the pious Founder. The Bishop who succeeded him, who approved the rules of the Congregation of Priests, or rather, the episcopal court, found several defects, either in the Congregation of the three Priests themselves, or in the circle of young people, or in the adoration of the

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Most Holy Sacrament, or in the properties which the Priests possessed, or in the money received from the community of women. However, instead of revealing any of these defects to the Priests, he arranged matters in such a way that this small Congregation should cease to exist; for on September 24, 1867, he wrote a letter to Priest B., in which he appointed him chaplain of the aforementioned community of women in that chapel, where the Congregation of Priests, as mentioned, performed the principal acts of piety, entrusting him with the office of spiritual care for the community and others, but in such a way that his zeal would be confined to that community and to the pious works directed by the same community of women. Furthermore, these three Priests established a new confessional in another house of the same women, to which they appointed Priest C. as an assistant chaplain, leaving Priest A alone, and making no provision for him. Upon learning of these dispositions, which the Bishop had ordered to be carried out within a short space of time, the three Priests wrote to the Bishop together, stating that they had canonically established the Congregation; that they had renounced all benefices and stipends; and that the pious institutions founded by the Priest N. were to be maintained in the same manner.

[*Latin ed. p. 84*]

84. REGARDING COMPLAINTS AGAINST THE BISHOP'S DISPOSITIONS. They requested that they be assisted whenever they were in need, whether healthy or sick, especially the community of women, but in such a way that the value of money should not exceed two thousand florins annually: this was the agreement established by the Founder and confirmed by the predecessor Bishop, by which the affiliated works would remain, and at the same time, they themselves would remain bound to the pious works; this agreement, they said, would be rendered void by the aforementioned dispositions; if this were the case, it would have to be said that they had been deceived both by the Founder and by the predecessor Bishop, and that fifteen years of labor would have been spent in vain. Finally, they implored the Bishop, knowing all these things, to preserve the Congregation unharmed. The Bishops responded with another similar letter, to which they added that they could not, in conscience, fulfill the duties entrusted to them. However, after this second letter, the episcopal court summoned the two aforementioned priests, B and C, and after hearing them, and finding them reluctant, the Vicar, acting in the name of the Bishop, decreed that their faculties for hearing confessions, preaching, etc., would cease after five days; however, the celebration of the Mass was left to their conscience. Leaving the court, these two priests wished to reserve all their rights. Therefore, the three priests turned their prayers to the Most Holy Father, asking that, after examining all things, He would deign to restore peace to everyone with His word. After the prayers were presented to the Bishop for information

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and a decision, the following was received from the court and from the Bishop: the three priests were not diocesan missionaries; they did not have their own rules; they provided an opportunity for improper things to occur; it was deemed advisable to separate them and renew them; because they persisted in disobedience, the faculties of preaching and hearing confessions, which are usually granted in that diocese for a year, were removed; moreover, they were accused of having, in the year 1855, obtained a house from a certain benefactor, to the detriment of a certain ward, in which certain priests of bad reputation, opposed to the Bishop, and others, both young and old, would gather, where there would be jests during meals, that is, the drinking of wine and other liquids, and the drinking of beverages made from Arabic beans (coffee), etc.; this gathering was deemed...

[*Latin ed. p. 85*]

REGARDING THE APPEAL AGAINST THE BISHOP'S DISPOSITIONS.

85. To restrain the circle of young men: the same three priests were reputed by public opinion to be the authors of libels against the Bishop. Aware of these things, two of the aforementioned priests, who had come to Rome, wrote a letter to the Bishop, in which they demonstrated that they had asserted all these things through error, and they obtained from the Holy Congregation of Bishops and Regular Canons that the Holy Congregation should send this letter to the Bishop; which indeed was done, with another letter added from the Holy Congregation itself, in which the Bishop was made more certain that the suppliant priests had presented to the Holy Congregation authentic regulations of their own institute, and this letter concluded with these words: "It has been decreed that it should be transmitted, so that, after a thorough consideration of the matter, you may receive the suppliants with kindness, and, if you deem it advisable, you may amicably settle the dispute and allow them to return to their own diocesan home for the spiritual good of souls, and so that there may be no occasion for a formal cause to be discussed before the Eminent Fathers in plenary session." But, other things being omitted, the matter finally came to the point where the question had to be legally defined. Therefore, having invited the parties to present their further rights, the question was proposed in the full Holy Congregation. In order that it may be known what the formulas of doubt were upon which there was to be discussion in this question, which was full of confusion, the following must at least be stated beforehand. The Curia contended that the three priests were nothing other than those so-called auxiliary priests, concerning whom the Bishop could dispose at his pleasure according to the custom of that diocese, and that they had been so styled and called for many years in the diocesan calendar, and also that they were considered to be so-called charity priests: that these priests were not diocesan missionaries, let alone religious, who had neither a religious house nor a chapel of their own; that, however, they claimed to possess a

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house called that of St. Charles, with a chapel attached, which, however, they asserted was not their own, but belonged to the Seminary, having been given to the Seminary by a certain Bishop in the year 1826, which was then transferred to diocesan missionaries; that, finally, in the year 1856, it had been let for 50 years to the Superior community of women: that these women had received the priest N., the founder of their institution, as a guest in this house; although, according to the sacred canons concerning cohabitation.

[*Latin ed. p. 86*]

g6 REGARDING OBJECTIONS. AGAINST THE BISHOP'S DISPOSITIONS. It could absolutely not have happened as stated: that three priests were exercising their ministry in the aforementioned *pella*, namely, preaching, hearing sacramental confessions, and that these ministries were exercised by virtue of the same faculties granted to them, which were indeed granted. Furthermore, it is stated that the Superioress of the community of women serving the sick had shown to the Bishop that these priests regularly received annual stipends of 1600, and 1600 for the service of other institutions, namely, the orphanage, etc., in the chapel of the aforementioned community of women, which is lacking a choir, and has only one wing, in which all the pious exercises of the community take place. The aforementioned priests were associated with various pious works or institutes of workers, or circles of young people, etc. Since that community of women possessed the privilege of perpetual adoration, the priests, who had taken the name of adorers, reserved the night for adoration, leaving the day to the aforementioned community of women. And for many years, it was a singular sight, and it is unnecessary to say more, that the nocturnal adoration was regularly performed by men, with a priest present, who called himself a religious, in the chapel of the community of women, which is lacking enclosures; and indeed, in the chapel connected to the interior of the community: cushions were placed in the sacristy, so that the adorers might rest somewhat. These are some of the abuses that the Bishop wished to correct. It is stated that those priests were lacking a religious house and chapel; and that they had produced their constitutions too late. It is false that those three priests were bound by a contract, while the priest N. was living, since he himself was later co-opted into the Congregation after the death of another, and it is unknown whether he made his novitiate, or took vows, and under which Superior he did so. And if the other two priests accepted that obligation through the Bishop of that time, it must be asked whether this is sufficient to establish a canonical institution, especially since such an act of a predecessor Bishop has never been presented to the Curia. Furthermore, the Curia inquired whether those priests would produce the records of the admission of novices, of the taking of vows of each one, the name of the Superior and

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the dignities of the Order, their acceptance, dispensations, the means of support, the names of the Superiors.

[*Latin ed. p. 87*]

REGARDING THE OBJECTIONS. AGAINST THE BISHOP'S DECREES. 87, after the year 1858, their administrators, any episcopal act that would confirm the appointment to some office. And if they presented all these things, the Curia still maintained, against them, the custom of the region, which is that diocesan missionaries remain under the Bishop's jurisdiction; against them, the custom of the diocese; and finally, the impossibility of existing as a religious congregation without a monastery, without a chapel, without a superior. Given these circumstances, the Bishop had intended to address two matters: firstly, to suppress the scandal of nocturnal adoration, and therefore he had decreed that, while the daytime Adoration remained intact, only the women of the community should adore at night with the doors closed; secondly, he had appointed a highly esteemed and worthy confessor to a large number of women who lived in the episcopal city, and had left him as a chaplain, the priest C, and the priest B as a chaplain, in another women's house, in which was located the aforementioned chapel where exercises of piety were performed. Those who refused these appointments, by doing so, lost the faculties of preaching and hearing confessions, according to the practice of the diocese. These priests, after these events, wrote a petition and sought signatures, stirring up the entire city, etc. With these and other details in mind, the proctors of both sides prepared formulas for questioning, which we place at the end. A Synopsis of the Discussion. Much was written by both sides, especially regarding the accusations on one side and the denial of the accusations on the other. However, setting aside all these things, we will follow only the substance of the question. DEFENSE OF THE THREE PRIESTS. The main question, according to the Defenders, was whether the Congregation of Priests could be suppressed by the Bishop in the present case. However, it must not be overlooked that the accusations made against the priests were either not serious, or were without real foundation. The Defender of the Priests, making a distinction, between regular orders with solemn vows, and congregations with simple vows.

[*Latin ed. p. 88*]

88. REGARDING OBJECTIONS. AGAINST THE DISPOSITIONS OF THE BISHOP.

Furthermore, according to what Angelus Lucidi states in his recent work *De VV. SS. LL.*, Volume 2, page 250, § 296, he considered the Congregation under discussion to belong to the second class, primarily because the rules had been approved by the Bishop on December 13, 1856; and on

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this basis, he concluded that the Bishop could not suppress that Congregation, since such Congregations, by their very nature, involve a reciprocal agreement, whereby the Congregation undertakes obligations towards its members, and, in turn, the members of the Congregation undertake obligations towards the Congregation; and even more so in the present case, since such an agreement could be explicitly found inserted within the rules. Indeed, even if the Congregation under discussion were considered as a pious foundation, established for a certain pious purpose, the Bishop could not convert that foundation to other uses, even if those uses were evidently better, without the intervention of the Apostolic See, as Schmalzgrueber, *Z. 3, t. 3, de relig. domib.*, n. 23, and Reiffest, *L 3, tit. 36, n. 10* state.

Moreover, the Defender argued how pious an institution the circle of young people is, an institution which, under the name of the Catholic circle, is spreading widely in France and Germany, with true benefit to the Catholic religion and to young people, who are thereby withdrawn from profane gatherings full of dangers. Nor could the Bishop suppress the same Congregation of Priests, simply because it consisted of only three priests, since that number was sufficient for the purpose for which it was established; nor could the dependence of those priests on the Bishop, as their first Superior, be considered an obstacle, for such dependence is to be understood, subject to the institute itself, and subject to what the rules prescribe.

Regarding the faculties for preaching and hearing confessions granted or not renewed by the Bishop, the Defender invoked the doctrine that is usually applied to Regular Canons, according to what Antonellus states in *De Regim. eccles.*, I, 7, c. 12, n. 14, and he also quoted the Decree of the Holy See, *Epis. et Reg.*, of the year 1615, which is found in the learned collection carefully edited by Cardinal Bizzari for the use of the Secretariat of the Holy See, on page 22, which reads as follows: "When it has come to the attention of the Holy Congregation of Cardinals, concerning the affairs of Bishops and Regular Canons, that Regular Canons are seriously complaining that they are being deprived by Archbishops, Bishops, and Local Ordinaries from hearing confessions, for any reason whatsoever..."

[*Latin ed. p. 89*]

ON OBJECTIONS AGAINST THE DISPOSITIONS OF THE BISHOP. 89. It often happens that, under pretense of some reason, the faculty of hearing confessions is entirely taken away from confessors, so that even Archbishops, Bishops, and local Ordinaries deny to all confessors of a single community the power to hear confessions. The Most Illustrious Fathers of the same Holy Congregation, recognizing that this cannot be done without scandal and great harm to souls, after mature deliberation, in order to remove all cause for scandal, and to provide greater spiritual consolation to the faithful, decree and decide that Archbishops, Bishops, and other local Ordinar-

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ies to whom the right of approving confessors belongs, shall not, under any circumstances, forbid approved Regular confessors to hear confessions, except for a new reason, and one pertaining to the confessions themselves, or because of a prohibition not observed by the confessors, established by the same Ordinaries. Furthermore, the same Archbishops, Bishops, and local Ordinaries are forbidden to take away, without the consultation of the same Holy Congregation, the faculty of hearing confessions from all the confessors of a single Regular community, in any way whatsoever. The aforementioned decree, as the same Illustrious Fathers considered it opportune and necessary, they command to be observed inviolably.

Rome, November 20, 1615. A. Mar. Bishop of Hostien. Cardinal. Gallus. Y. Theatine. Secretary. Moreover, in the present case, if the faculty of preaching and hearing confessions were taken away from the three priests in question, this would indirectly destroy what could not be directly destroyed. Alice afterwards presented arguments against this, which, since they referred entirely to particular circumstances, would make the controversy more complicated and would cause boredom to the reader without any benefit; therefore, we voluntarily refrain from mentioning them.

DEFENSE OF THE BISHOP. Much has been written by the Defender of the Bishop; however, we, focusing on the core of the matter, refer only these points. It was also observed that the Defense, in its essence, was based on a false premise, since the Defender of the Congregation of Priests considered it to be a Regular Congregation, or at least a canonically established institution; which was not true.

[*Latin ed. p. 90*]

90. REGARDING COMPLAINTS AGAINST THE ACTIONS OF THE BISHOP. It was considered necessary that the ecclesiastical superior, through a special exercise of his authority, using solemn words such as "we establish," "we constitute," etc., formally declare something to be ecclesiastical, as happens in the canonical erection of confraternities, seminaries, hospitals, etc., as Monacelli points out. However, in the Congregation under discussion, no such exercise of authority took and took place: for the predecessor bishop did nothing other than to observe the rules and to approve them, and thus to strengthen them, so that, through the grace of God, they might be observed. This action carries with it nothing other than the bishop's approval and consent, which did not introduce any change in the natural state of the Congregation, so that the bishop appeared to be waiting for a different time, when he could bring said Congregation from its natural state to a canonical state. Furthermore, certain actions indicated that the same bishop did not consider the Congregation to be canonically established; and the same bishop freely used the services of these priests for various needs of pious institutions. Regarding the power to preach and to hear confessions, it

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was observed that, since these priests did not constitute the Congregation as canonically established, they should be fully subject to the laws of the diocesan synod; therefore, since they themselves recited the duties assigned to them by the bishop, and the time granted for that power had elapsed without any renewal of the permission, that power was, by that very fact, terminated. As for the perpetual adoration, which was performed at night by the members of the Perseverantiae and others, in the presence of one of the aforementioned priests, in the chapel of Saint Charles of the community of women, it was observed that, according to Lucidi, loc. cit., p. 164, "In the churches of nuns, associations of lay people should not be established, because the Sacred Congregation and the Regulations concerning Tirasonen, November 9, 1595, wrote: 'It does not please the Sacred Congregation that confraternities of lay people be established in the monasteries of nuns under any title, in order to eliminate as many inconveniences as may arise from this; indeed, it commands that those that have been established be dissolved or transferred.' These and other points disputed in law were to be clarified by the following formulas of doubt, which were to be examined by the parties in dispute.

[*Latin ed. p. 91*]

ON A REQUEST. CONCERNING THE DISPOSITIONS OF THE BISHOP. 91 Questions. I. "Whether and how three Priests (A.B.C.)" can constitute a canonical religious community, so that in it "certain things must be observed." II. "Whether, and how, the dispositions of the Bishop" are to be maintained regarding the faculties granted to Priest (C.) and not renewed to Priests (A and B): regarding the land designated by the Bishop (F.) for the use and habitation of Missionaries: regarding the use of the Chapel of St. Charles: regarding the prohibition made to the Superior Community of assisting the three Priests in this case.

RESOLUTION.—The aforementioned cause, having been presented before the Congregation of Bishops and Regulars on February 7, 1808, was postponed by the formula "Dilata"; and, having been presented again on May 15, 1808, the following response was given: Regarding I. The Priests (A, B, C) do not constitute a religious community, but rather a pious society, and this must be maintained under the jurisdiction of the Bishop. Regarding II. The aforementioned faculties of preaching and hearing confessions have been validly revoked, and, respectively, have not been renewed: the revenues of the land are to be applied to the benefit of the aforementioned pious society: the Decree of the Bishop regarding the Chapel of St. Charles is to be maintained: finally, regarding assistance, the Bishop must decide, in each case, with prudence and equity, and having regard to the regulations of the year 1858, concerning the amount of assistance.

FROM WHICH ONE MAY GATHER: I. That pious societies of Priests must never be confused with religious Orders, or with ecclesiastical Con-

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gregations which have received approval from the Apostolic See. II. That these same pious societies can be of two kinds: namely, those canonically erected by a formal Decree of the Bishop, by which, without changing the nature of the pious society, they nevertheless become canonical, and impart an ecclesiastical form and appearance in the diocese, as are canonically erected Confraternities; and others which are simply pious, which are undertaken by Priests for some pious work, either from a constituted foundation, or from a voluntarily assumed purpose.

[*Latin ed. p. 92*]

92. REGARDING OBJECTIONS. AGAINST THE DISPOSITIONS OF THE BISHOP.

I. Such pious societies cannot be dissolved by the Ordinary without a grave and true reason, although the Bishop can and should correct any defects that may arise in these societies (1).

II. It matters little whether this dissolution is carried out directly by the Ordinary through express suppression, or indirectly through the denial of faculties, etc.

III. The Ordinary can indeed validly deprive priests of the faculties to preach and to hear confessions without a just cause; however, the question remains whether he is permitted to do so.

IV. Finally, it is not fitting to establish associations of men in monasteries and among pious women.

(1) If one asks for the reason why the Bishop cannot suppress such pious societies without a grave reason, it seems to be this: in any well-ordered republic, the Prince has his rights, and the subjects likewise have their rights; and these rights correspond to mutual duties, so that the Prince has the duty of safeguarding the rights of his subjects, and the subjects have the duty of obeying the rights of the Prince. In the ecclesiastical republic, which ought to be the most orderly of all, the same must be said: therefore, Bishops have their rights, and the faithful and ecclesiastics likewise have their rights, to which mutual duties correspond; for the perfection and order of the entire society consists in the exercise of these rights and duties, by which each person is contained within his own role. Among these rights of the faithful and ecclesiastics is the right to pursue a particular good without infringing on the rights of others and ecclesiastical discipline: and each person can exercise this good, either by himself, or with the help of others. The exercise of this good with the help of others is the beginning of particular societies; and this exercise not only leads to the good that the members provide for each other, but also to the good of the members themselves through mutual examples and mutual assistance. Therefore, unless there is a grave and true reason (such as if such societies were to

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tend to the detriment of ecclesiastical discipline, or to the detriment of the members, etc., or perhaps due to the needs of the diocese), they cannot be suppressed; for the rights of individuals would be violated, and the mutual obligations that legitimately and easily arise among the members would be undermined. However, if defects have arisen, these must be corrected by the Bishop, to whom the pious society is naturally subject.

And furthermore, this is in accordance with the nature and spirit of the Catholic Church, which has never opposed such pious societies without a grave and true reason, but has even fostered them, so that, through experience, it often subsequently makes them its own through a special exercise of its authority, such as through canonical erection; and it enriches them with special favors and privileges. No other spirit could be that of the Church, since it is written: "Where two or three are gathered together in my name, there am I in the midst of them." In this way, the monastic Orders, the religious Orders, and the ecclesiastical congregations arose, which are flourishing greatly in the present age, and for which, after a careful examination through certain steps, even formal approval from the Holy See is obtained.

[*Latin ed. p. 93*]

93. EMPHITHEUSIS. May 15, 1868. Summary of the case. In the year 1788, the Chapter [of a religious order] granted to the Brothers B. a small area of land belonging to the Chapter's estates, subject to an annual payment of 4 *oboli*. The Brothers B. were to use this area solely for the construction of a small house, or rather, a workshop, near Caffè, along with a dwelling. Subsequently, the Chapter granted the same Brothers B. the right to construct a well for storing snow, with the obligation of paying to the Chapter annually fifty *librae* of snow. This emphiteutic contract was to endure until the third generation, beginning with the aforementioned Brothers, so that, upon the expiration of the contract, the land and the small house, and all improvements of any kind, even the most significant, would revert to the property of the Chapter. This contract was entered into without the authority of the Bishop. Both Brothers, who had constructed the small house and the well for storing snow, died without issue, one after the other. After their death, a certain family N. took possession of this emphiteutic land, with the understanding that this would extinguish the debt that one of the deceased Brothers had contracted with that same family. However, this family paid the canon from the year 1833, but there was no instrument or written document, nor any action by the episcopal court, and the Chapter continued to demand the canon until the year 1847. In the same year, with the consent of the Chapter, the family N., by a newly stipulated agreement, granted full ownership of the emphiteutic land to a certain John, for the price of 50 *scudi*, or 268 *lire*, 75 *centesimi*, with the obligation of observing the agreements stipulated in the original

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agreement of the year 1788, and of paying the canon and other expenses. Nor was the authority of the Bishop involved in this transaction. This John, through his labor, improved the land so much that, with a larger house now built upon it, it is now estimated to be worth 550 *scudi*, or 2956 *lire*, 25 *centesimi*.

[*Latin ed. p. 94*]

94. EMPHITHEUSIS. Wherefore, John presented a petition to the Holy Congregation, that, with an increased rent, the same property might be granted to him in perpetual emphyteusis. Upon inquiry of the Bishop and Chapter, the following observations were made: The Chapter noted that the emphyteusis had ceased due to the death of brothers B., who had passed away without issue; that John had enlarged the house in contravention of the prohibition expressed in the first instrument of the year 1788; yet, it consented that the emphyteusis be renewed for a third generation, with an increased rent of 2.50 scudi, or according to libellus 13, 44; the Bishop confirmed the proposals of the Chapter. John, however, accepted such conditions provided that it be expressed in the new instrument that, should the emphyteusis cease, the Chapter, if it wished to take possession of the property, should be obliged to pay to the heir of John the sum estimated at more than 50 scudi. Furthermore, he requested that, since he himself was poor, a mortgage be recorded on the very house, which he had greatly enlarged, as security for the rent. However, on September 18, 1806, a reply was received from the Holy Congregation stating that it did not seem expedient. John renewed his petition for several reasons, and, upon being consulted, the Bishop and Chapter again proposed such conditions on June 28, 1867: 1° that the emphyteusis be granted for a third male generation (without specifying whether it should begin with John or with his sons), with an annual rent of 2.50 scudi; 2° that, out of compassion (since he had, of his own accord, enlarged the house), it be granted that, upon the termination of the emphyteusis, the Chapter should become the owner of the entire house, provided, however, that the Chapter should be obliged to pay the sum estimated at more than 50 scudi, a condition imposed upon John that the same house should not be further enlarged in any way. 3. For the purpose of preserving what is to be preserved, a "synoptic discussion" was presented before the Holy Congregation. OBSERVATIONS FROM THE OFFICE. It was observed that ecclesiastical property is inalienable without Apostolic approval; that property of modest value may be given, which can be alienated by the Bishop without Apostolic approval. However, the Chapter had acted wrongly, having taken the liberty of doing so without

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any permission from the Bishop; the property, although...

[*Latin ed. p. 95*]

EMPHYTEUSIS. 95 Concerning granting a leasehold (emphyteusis), it was noted that, although due to a thirty-year prescription, such a leasehold could be maintained in court, it was also observed that the original leasehold, of which the brothers B. were in possession, could be alienated with the useful dominion remaining, to the detriment of the successors who are called to the leasehold; however, such an alienation would not extend beyond the generations called to the leasehold. Furthermore, after the death of the brothers B., the leasehold ceased by its own law due to the limited line of inheritance; therefore, the family N. could not enter into the leasehold; consequently, the Chapter acted wrongly in receiving a payment from the family N. without the permission of the Bishop. However, the intervention of the Bishop would have been sufficient to renew the leasehold, even though the property was then valued at 50 shillings. In that diocese, a property valued at 50 shillings is considered of modest value. It was also noted that the family N. had indeed sold the useful dominion to John, but they had not sold their own property; therefore, the Chapter had the right to seize possession of the entire constructed house, subject to John's right against the family N., etc. With these considerations in mind, the matters presented in favor of John were brought forth. He stated that the property had initially been leased at a valuation of 3 shillings, and therefore the payment of 40 shillings made to the Chapter was excessive; the brothers B. had increased the value of the leasehold property to 50 shillings, and while the Chapter had the right to this value of the property, it did not have the right to the value to which John had brought it through his own efforts, that is, to 450 shillings. These improvements to the property were such that they had completely changed the nature of the property, either in terms of quality or quantity, and therefore the direct lord could not, without injustice, claim these improvements for himself. To remove the difficulties raised based on the fact that, according to the first leasehold instrument, the property was received by the original lessee; and also based on general principles of law according to which improvements made by the lessee belong to the property itself; the following was noted: Regarding the first point, the words of the agreement in the instrument referred only to that small house which the original lessee had built, and those words, although extensive, could not be applied to the significant improvements made in good faith by him, unless in the case where the property reverted to the direct lord.

[*Latin ed. p. 96*]

96. EMPHITHEUSIS. Concerning the rights of the emphiteuta, according to what is stated by the Rota in *Romana Emphiteusis* on January 10,

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1834, before Marini § 8, where it is read: "These words, however extensive they may be in themselves, must be understood in such a way that they do not imply the loss of improvements made to the property in good faith, unless when the property reverts to the direct lord due to the fault of the emphiteuta, that is, due to a violation of the agreements, or some crime committed... otherwise, when the fault of the emphiteuta extends only to a limited area." Regarding the second point, it is true that the improvements made to the emphiteuta's land remain his; but when it comes to improvements, another principle applies, namely, that no one should enrich himself at the expense of another, as taught by Cardinal De Luca in *Diseurs. De emph. n. 40* and by the Holy Rota in *Ravennaten. Laudem, coram Canillac §. 7*. For when the reversion is not due to fault but is accidental, the improvements must be restored, notwithstanding the agreement, which is to be understood in the case of minor and natural improvements, and not of major ones. Such compensation is usually admitted in civil courts; and they are also admitted by the Holy Congregations, which follow equity, as in the case of *Firmana Emphiteusis* of November 20, 1841, and especially in the case of *Montisfalisci Emphiteusis* of February 6, 1867, before the Sacred Congregation of the Council. Moreover, if the improvements were made in good faith by the emphiteuta himself, and not by the direct lord, and if they were made during the emphiteusis, then, in that case, he has the right to be compensated for the expenses of the improvements made, as it is read in the aforementioned *Montisfalisci §* as follows: "It is necessary to make a distinction regarding the expenses and improvements made by the emphiteuta during the emphiteusis; for either, according to the first law of the emphiteusis, the improvement was made, or, beyond what was agreed upon in the first emphiteusis agreement, other useful expenses were incurred; in the former case, it is reasonable that the direct lord should retain them without any obligation to compensate; but in the latter case, when the emphiteusis has ended, the emphiteuta is not forbidden to remove them: this principle has been accepted for many other reasons, so that those who have improved the property may be able to recover their expenses, even though they were not obligated to do so by the agreement, lest one become enriched at the expense of another."

[*Latin ed. p. 97*]

EMPHITEUSIS. 97. Iohannes autem concludebat, se possessionem illius fundi cepisse non secréte, sed cum consensu Capituli; se instaurationes fecisse bona fide, sciente et vidente Capitulo; se esse patremfamilias pauperem, etc. EA QUAE IN CONTRARIUM ANIMADVERSA SUNT. Erat praxis Sanctae Congregationis Episcoporum et Regularium, ut in eiusmodi Rescriptis emphiteuses respicientibus, clausula adiungatur, ut melioramenta cedant solo emphiteusi finita: quod quidem principium innititur Statuto Concilii Romani anni 1725, littera 19, ubi firmatum fuit:

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concessionis tempore expleto, bona ipsa cum suis membris, iuribus et pertinentiis universis, nec non et melioramentis desuper pro tempore quomodolibet factis, ad ecclesias et loca pia, quibus ex directo dominio pertinent, ad eorum dispositionem pleno iure atque omnino libere, vacua et expedita relinquantur. Adversari Ioanni pactum, quo fundum acquisivit, quod ipse erat, quo primo fundus in emphiteusim traditus est; et ratione pacti expressi, ea quoque melioramenta cedere solebant domino directo, quae aliter compensanda fortasse a domino directo essent. Denique adnotabatur, secundum expositas contractus positiones, Ioannem eiusque descendentes usque ad tertiam generationem gaudere novo aedificio, sine ulla Capituli utilitate, quod tantum perceperet canonem scut. 2, 50 seu Libellarum 13, juxta praeteritam fundi aestimationem. Hisce aliisque animadversis, propositum est resolvendum dubium: « An et sub quibusnam conditionibus annuendum sit concessioni emphiteusis in casu?» RESPONSIO. — Sancta Congregatio Episcoporum et Regularium die 15 Maii 1868 respondere censuit: affirmative pro concessione in emphiteusim ad tertiam generationem masculinam, scilicet pro Ioanne (N.) eius filiis et nepotibus tantum, pro annuo canone Libellarum 13: 50, et cum consuetis clausulis et aliis conditionibus expressis in resolutione capitulari diei 28 Junii 1867. In Instrumento investiture inseratur descriptio melioramentorum nunc extantium, nec non tabula icnographica. Expirata emphiteusi, melioramenta cedant directario Capitulo, ita tamen ut nunc extantium melioramentorum et Acta, tom. IV, fase. XXXVIII. 7.

[*Latin ed. p. 98*]

98. EMPHITHEUSIS. Of those things which may remain at that time, an assessment shall be made, and to the heirs of the emphyteute, or to whomever is legally entitled, the Chapter shall pay whatever exceeds the sum of four hundred livres, without, however, any obligation to mortgage any other property besides the usufruct. From which, you may gather: I. That ecclesiastical goods are inalienable without the Apostolic approval. II. That goods of only modest value may be alienated with the consent of the Bishop. III. That the contract of emphyteusis is included under the general name of alienation. IV. Furthermore, you may gather that he who builds on another's land may not build for himself, but, provided that good faith is present, he has the right to compensation for expenses, based on an assessment of the building (1).

(1) Certain expenses are necessary, some are useful, and some are for pleasure. The deduction of necessary expenses incurred in respect of another's property is granted, according to the ancient jurists, to all possessors, even those who possess in bad faith, as stated in *Digesto*, 1.1, *Fragmenta* concerning expenses in dowries. This deduction of expenses is granted not for the sake of the person possessing, but for the sake of the thing itself, which, otherwise, would perish, but is preserved.

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However, the possessor in good faith is in a better position regarding useful expenses incurred in respect of another's property than is the possessor in bad faith. The possessor in good faith, who has incurred useful expenses in respect of another's property, for example, who has erected a building on another's land, as in the present case, can prevent the owner of the land from reclaiming his property by means of an exception for bad faith, as stated in *Digesto*, Sumptibus, 48, *Fragmenta* concerning the recovery of property, 1.7, §. Conversely, see *Digesto*, 12, *Fragmenta* concerning the acquisition of property, Institutes, concerning divisible property, § 30. The reason for this is that it is unfair, and contrary to natural equity, for someone to demand that, with another's damage and injury, he should become richer, as stated in *Digesto*, 14, *Fragmenta* concerning conditions, and 1.1, *Fragmenta* concerning bad faith exceptions. The possessor in bad faith is in a worse position in this type of expenses, since no deduction of expenses is granted to him. As stated in *Digesto*, 5, *Fragmenta* concerning the recovery of property, 1. Julian, 37, *Fragmenta*, ibid., 1.7, §. Conversely, see *Digesto*, 12, *Fragmenta* concerning the acquisition of property. Concerning this matter, Justinian states in the Institutes, concerning divisible property, § 30: "If anyone builds a house on another's land with his own materials, the house becomes his, and the land also. But in this case, the owner of the land loses ownership of the materials, because it is understood that he has alienated them, unless he was unaware that he was building on another's land; and therefore, although the house is demolished, he cannot reclaim the materials." Also, in *Digesto*, 5, *Fragmenta* concerning private buildings, it is stated: "Buildings which are placed on another's land belong to the land, and the expenses of those who have done this improperly are not to be reimbursed." Expenses which are called "for pleasure" somewhat resemble useful expenses, and are subject to an exception for bad faith, provided that the possessor who incurred them is in good faith.

[*Latin ed. p. 99*]

EMPHITEUSIS. 99. And that compensation for such expenses may also be found in the reversion of the emphyteutical property to the lord, whenever the emphyteuta has made improvements to the property that are superior to those previously stipulated, provided that the property reverts to the lord without fault on the part of the emphyteuta.

FROM THE HOLY CONGREGATION OF INDULGENCES. CITY. DECREE. "Since the small scapulars that the faithful commonly wear are, in their origin and institution, nothing other than scapulars adapted in various forms by Religious Orders for the greater convenience of the faithful, doubts have been presented to the Holy Congregation of Indulgences and the Sacred Relics by the Reverend General Procurator of the Congrega-

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tion of the Most Holy Redeemer, concerning both ancient and more recent scapulars, namely: I. "Whether the material used to make scapulars must necessarily and exclusively be wool, or whether other similar material, such as linen (commonly called cotton), can also be used. And to this, the answer is affirmative to the first part, and negative to the second. II. "Whether the term 'panni,' 'panniculus,' commonly used by authors, should be understood in a strict sense, that is, to apply only to those who, by reason of necessity, cannot afford to bear these expenses; it is answered that, even if the possessor is of bad faith, he has the power to remove what can be removed without detriment to the thing itself, as clearly stated by Caius I. Utiles 29 ff §. i, de heredit. Let us, however, take care that this exception does not also apply to expenses incurred for paintings, marble, and other luxurious items, especially if we are of good faith; for the usurer will rightly be said not to have been obliged to make superfluous expenses on another's property, but that he should be allowed to remove those expenses which can be removed without detriment to the thing itself. These principles can be best applied to those who have purchased ecclesiastical property from usurers and have built upon it as if it were their own."

[*Latin ed. p. 100*]

100. GARMENTS. "Whether a garment properly so called (commonly known as 'fabric'), or whether it can also be understood to refer to a garment made of woven wool (commonly known as 'knitted fabric' or 'tricotage'), and to any woolen work embroidered with a needle (commonly known as 'embroidery'), provided that it is always dyed with the prescribed color.

I. Whether a scapular made of woolen fabric of the prescribed color, which has ornaments woven or embroidered upon it, is valid, even if the ornaments are made of wool of a different color.

II. Whether a scapular made of woolen fabric of the prescribed color, which has ornaments woven or embroidered upon it, is valid, even if the ornaments are made of a material other than wool, e.g., silk, silver, or gold, etc.

III. Until now, the general custom has been to make scapulars in an oblong or at least square shape; but now, in some regions, the custom is being introduced of making scapulars in a round or oval shape; indeed, even in a polygonal shape. The question is, whether a different shape, other than oblong or square, is an impediment to the validity of the scapular.

IV. In many regions, the praiseworthy custom, approved by the Holy See, of wearing several scapulars together, each distinct from the others, is flourishing. In this case, the fabric portions of the various scapulars are placed one upon the other, and are attached with only two cords, so that, however, the fabric portions of each individual scapular are suspended both from the chest and from the shoulders. It often happens that these

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united scapulars are arranged in such a way that, instead of having several fabric portions of different colors, only one fabric portion is attached to each cord, in which the embroidery or needlework, made with different colors, is visible, to signify the several different scapulars. The question is, whether these united scapulars are valid.

Therefore, the Eminent Fathers, in the General Congregation held in the Apostolic Palace at the Vatican on July 20, 1868, having first heard the opinion of the Consultor, and having carefully considered the matter, decided as follows:

I. Affirmative to the first part, negative to the second.

II. Affirmative to the first part, negative to the second.

III. Affirmative, provided that the ornaments are such that the prescribed color predominates.

IV. As in the preceding.

V. Nothing is to be changed.

VI. Negative.

[*Latin ed. p. 101*]

URBIS. i Ol » And after a report on the aforementioned matters was presented to Our Most Holy Father Pope Pius IX by myself, the undersigned Cardinal Prefect, during an audience held on August 18, 1868, His Holiness approved the resolution of the Sacred Congregation. » A- CARD. BIZZARRI, Prefect. A. Colombo, Secretary. • Observations of the Consultor. The Consultor, noting the various scapulars of the Blessed Virgin Mary, both ancient and more recent, namely the scapulars of the Carmelites, servants of the Blessed Virgin, of the Most Holy Trinity, and of the Blessed Virgin of Mercy, which are the more ancient scapulars; and then the scapulars of the Immaculate Conception, of the Institute of Saint Vincent de Paul, of the Passion of Our Lord, and of the Passionists, which are the most recent, observed that, in resolving the doubts, it is necessary to recall the general principle, which is expressed as follows: That scapulars are valid in their material form if they possess and fulfill all the essential requirements found in the corresponding larger scapulars of religious orders. And indeed, the same Consultor noted that the smaller scapulars, which the faithful use, are nothing other than the scapulars of various orders, reduced to a smaller form for the greater convenience of the faithful; therefore, they must agree with the larger habit or scapular of the orders, at least in their essential aspects, namely in material and color. With these observations made, the Consultor made his opinion clear on each individual doubt. And regarding the first, he considered that woolen material is necessary, excluding any other material; and this he deduced, both from the larger scapulars of the religious orders, which are all made of wool, and from the common and universal usage, and from the unanimous opinion of the authors

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who have written on this subject. As for the second: he considered that the term "Pannum," "Panniculum," should be understood strictly as referring to woolen fabric properly so-called; and this he deduced both from the very word "Panno," by which name one could only improperly call a woven or embroidered work, even if it were made of wool; and also because of the necessary conformity with the larger scapulars, which are never made of a similar woven material.

[*Latin ed. p. 102*]

102. In the city [quadrata], opinions were expressed; then, in order to prevent abuses and arbitrary interpretations, which could easily creep in and indeed have crept in regarding the making of scapulars. However, the Consultor indicated that, under the name "woolen fabric," any woven woolen work could be understood, not only what is commonly called "cloth" (drap), but also a "shawl" (saia) and other similar woolen textures. Regarding the third point: he stated that ornaments did not seem to be an obstacle, if these are accessories and the scapulars are not altered by them; however, the ornaments should be small, so that it can be recognized at first glance what kind of scapular it is; if a large part of the scapular were covered by these ornaments, and it could no longer be recognized as a scapular, then there would be reason to doubt its validity. The Consultor applied this also to the fourth question. Regarding the fifth: he noted that the scapulars of different religious orders are all oblong and have a right angle, and therefore oblong and square scapulars correspond better to the originals. Regarding the sixth: such scapulars would seem invalid, since such scapulars are nothing other than a single scapular decorated with various colors; therefore, he considered that the most common practice already approved by the Holy See should be followed, namely, to use pieces of cloth, some placed over others, and with a double cord attached both to the chest and to the shoulders, so that the scapulars are worn as if they were one. This, to some extent, seems to have already been defined by the Sacred Congregation. For when the question was proposed: "Whether those who have received the scapular of Mount Carmel and of the Immaculate Conception must wear [them]?" The Sacred Congregation, on August 22, 1842, responded: "Affirmatively" (1). FROM WHICH YOU MAY GATHER: I. Small and pious scapulars, which are worn by the faithful to gain indulgences, cannot be arbitrary, but must have a certain material form, which cannot vary beyond certain limits. (1) Compare the other Decree in Monaca, of August 29, 1864, which I cited in Vol. L, p. 431, which is very relevant to this matter.

[*Latin ed. p. 103*]

URBIS. 103 I I. Such limits are to be derived from the very material form by which the major scapulars of religious orders are constituted, a form

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which these minor scapulars imitate. III. Therefore, with regard to the material form, these small scapulars will be more perfect to the extent that they more closely imitate the major scapulars, and more imperfect to the extent that they deviate from their imitation. IV. Hence, if they have nothing in common with them, or if they deviate to such an extent that they do not imitate them in color, material, or texture, they must be considered invalid; that is, they are not to be regarded as signs of a pious association to which indulgences have been attached. AURELIANEN. ON THE FACULTY OF THE VICAR GENERAL WITH REGARD TO THE ERECTION AND AGGREGATION OF CONFRATERNITIES. July 20, 1868. DECREE. "Although the Vicar General, by virtue of the general authority entrusted to him, can carry out those matters which pertain to the ordinary jurisdiction of the Bishop, nevertheless, there are certain things which he cannot do without a special mandate from the Bishop; namely, those which, either by written law or by the gravity of the matter, require a special commission. Among these, the erection of confraternities is to be included, as the Doctors teach, and as seemed to be inferred from the Resolution of the Sacred Congregation of Rites issued on October 7, 1717, in which it was answered to the Bishop of Elboren: 'To no one is it permitted, without the consultation of the Bishop, to erect and establish new confraternities in his diocese, and to confirm their statutes; all of which, with regard to others, pertain only to the Bishop in his diocese.'" Furthermore, the Vicar General cannot, by virtue of his office, interfere in the execution of Apostolic letters concerning such indulgences, if these have been directed to the Bishop; unless the power of delegation has been granted to him, and he has truly delegated his Vicar General. This is confirmed by this Holy Congregation in a document from Gratianopolis, dated May 24, 1843. "For when the Bishop of Gratianopolis..."

[*Latin ed. p. 104*]

"AURELIANEN" had obtained, in addition to other faculties, permission to establish several sodalities within his diocese. The Sacred Congregation was asked whether two Vicars General of the same Bishop, who with him formed a moral tribunal, could, at least with regard to ecclesiastical jurisdiction, exercise the aforementioned faculties, namely, to establish sodalities, etc. The Sacred Congregation responded: "Indulgences or faculties concerning which the doubt is raised, although they do not pertain to the proper benefit of the Bishop, but rather to the good of the people of the diocese, are nevertheless not within his ordinary power for the proper and necessary administration of the souls entrusted to him; thus, in his absence or due to illness, or if he is hindered by excessive occupations, another may perform his duties in his place, as if legitimately delegated by him; but if they are rather favors which the same Bishop has personally obtained from the Apostolic See, then they are to be distributed only to those faithful en-

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trusted to him by the Bishop, unless he has requested them from the Apostolic See in prayers using these words, or similar ones, namely, whether he, or through his Vicars General, will establish, communicate, etc. Finally, in the Constitution of Clement VIII, beginning with "Quaecumque," it is prescribed that the aggregation of confraternities must be done with the prior consent of the local Ordinary, and with his testimonial letters; and furthermore, that the statutes of these confraternities cannot be promulgated unless they have first been examined and approved by the Diocesan Bishop for the good of the place; in both cases, the term "Ordinary" refers only to the Bishop, both from the words of the Constitution and from the nature of the matter, so that a Vicar General requires a special mandate for this purpose. For by the aggregation, the confraternity is perfected by a new erection, and by the transmission of statutes, privileges, indulgences, and other spiritual graces, it is raised to a higher status. Therefore, in this case, the term "Ordinary" is understood to refer only to the Bishop, as in the case discussed in the Council of Trent, Session 23, chapter 8, on Reform, with these words: "Each one must be ordained by his own Bishop. But if anyone requests ordination from another, it must not be permitted to him, unless his probity and morals are attested by the testimony of his own Ordinary. However, the Doctors unanimously state that by the term 'Ordinary' the Bishop is meant, not the Vicar General, unless a special mandate has been given to him by the Bishop, so that a Vicar..."

[*Latin ed. p. 105*]

AURELIANENSIUS. 105. "Generalis, sine hoc, minimè potest litteras dimissoriales seu testificales ad effectum recipiendi ordines concedere." Quare non est mirum quod Vicarius Generalis Episcopi Aurelianensis, quatuor dubia sequentia Sacrae Congregationi enodanda proposuerit, nempe: I. "Cum Episcopus obtinuerit facultatem a Sede Apostolica 'erigendi Confraternitates cum respectivis indulgentiis,' potestne Vicarius Generalis id praestare absque speciali delegatione Episcopi?" II. "Potestne Vicarius Generalis auctoritate ordinaria erigere Confraternitates absque delegatione Episcopi, ita ut erectio sic peracta canonica sit?" III. "Utrum Vicarius Generalis possit valide concedere litteras testimoniales ac consensum requisitum a Clemente VIII. pro aggregatone Confraternitatum?" IV. "Utrum Vicarius Generalis possit adprobare statuta Confraternitatum?" Quibus Emi Patres in comitiis generalibus habitis apud Vaticanas aedes die 20 Iulii 1868, consultoris voto et re mature perpensa, ita responderunt: Ad I. "Negative, nisi Episcopo subdelegandi potestas in Apostolico Indulto concessa fuerit, suumque Vicarium Generalem subdelegaverit." Ad II. "Negative." Ad III. "Negative." Ad IV. "Negative, et supplicandum SSmmo pro sanatione." Et facta de praemissis relatione SSmmo D.N. Pio PP. IX. in Audiientia habita a me, Card. Praefecto, die 18 Augusti 1868, Sanctitas Sua resolutionem Sacrae Congregationis approbavit, et confirmavit, et

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sanationem erectionum Confraternitatum, et approbationum statutorum a Vicariis Generalibus usque ad totum currentem diem 18 Aug. 1868 factarum, nec non Aggregationum, quae cum litteris testimonialibus et consensu Vicariorum Generalium locum huc usque habuerunt, benigne impertit. Contrariis quibuscumque non obstantibus. A. Card. BIZZARRI, Praefectus. A. Colombo, Secretarius.

[*Latin ed. p. 106*]

106. AURELIAN. From which we gather: I. That certain matters, which are usually considered among the more important affairs of a diocese, cannot be carried out by a General Vicar by virtue of the general mandate he receives from the Bishop upon assuming his office as Vicar. II. Among these more important matters are to be included the canonical erection of confraternities, the canonical aggregation thereof, and the approval of their statutes (1). III. For canonically erected confraternities form pious communities, enriched with spiritual benefits, which have a part in the ecclesiastical structure of the diocese (2). IV. Therefore, both the erection, the aggregation, and the approval of statutes require an act of superior episcopal authority. V. However, the Bishop can confer this authority upon the General Vicar through a special mandate, whenever the general mandate does not explicitly include this special authority (3). VI. Nevertheless, the Bishop cannot delegate this power to the General Vicar, especially if it has been graciously granted to him by the Apostolic See without any mention of the power to delegate (4). VII. Finally, it is to be noted that the erections of confraternities and the approvals of statutes made by General Vicars, due to a lack of authority, were considered valid until August 18, 1868. (1) Regarding aggregation and the granting of indulgences, reference may be made to the decree cited in Vol. II, p. 57, and the questions on pages 28 and 362, ibid. (2) In the records of Consistorial proceedings, it often happens that we briefly describe the structure of the churches: Our readers may have observed that, besides parishes, hospitals, cemeteries, monasteries, etc., confraternities, charitable institutions, etc., are also indicated, thus demonstrating that confraternities have a part in the ecclesiastical structure of the diocese. (3) I said "explicitly not included"; for this general mandate can be broadened or restricted by the Bishop; and the Bishop can determine more things which, by virtue of the general formula, would not pertain to the Vicar: however, those things which, by virtue of the general formula, would not pertain to the General Vicar, must be explicitly designated, so that those matters which are listed among the more important affairs, are not included under this broadest formula, if, for example, the Bishop were to say to the General Vicar: "Be my alter ego." The authors should be consulted on this matter. (4) See also what I cited in Vol. I, p. 247. Furthermore, a certain limitation was imposed upon the Bishops themselves concerning

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the Confraternity of the Most Holy Rosary, in Vol. II, p. 106.

[*Latin ed. p. 107*]

107 CONCERNING THE CATHOLIC ASSOCIATION OF SAINT FRANCIS DE SALES. SUPPLIES AND PRAYERS. Most Blessed Father, the President and the presiding members of the Catholic Association of Saint Francis de Sales, prostrate at the feet of Your Holiness, humbly declare: In the year of Our Lord 1855 and the following year, Your Holiness deigned to say to the Reverend Monsieur Mermillod (who is now the Auxiliary Bishop of Genèva), and then to the Reverend Father D. Alzon (the Superior of the Augustinians of the Assumption and the General Vicar of Némours), that it was greatly desired by Your Holiness that a pious society of prayers and alms should arise among Catholics in foreign lands, so that the faith of Christians might be strengthened, a considerable aid be provided to the diligent clergy, the enemies of the Church, united together, might be more easily overcome, and thus the Catholic faith might remain pure and whole everywhere among the faithful. Your Holiness added, "Such a society seems to Me to be, as it were, a 'propagation of the faith from within,' so that those who strive to spread the faith among the infidels and heretics, may also undertake to preserve and defend it among the faithful." From this desire of your heart, Most Holy Father, the pious Association of Saint Francis de Sales began, first in Némours in the year 1855, and then two years later in Lutetiae, in Paris, where, established on a firmer foundation, it grows stronger day by day and strives with great effort to be of manifold and diverse assistance to the clergy who preserve and defend the faith. Indeed, it: 1°. Establishes, increases, or assists numerous Catholic schools and pious institutions, which are dedicated to the true sanctification of children. 2°. Dispenses good books, adapted to the understanding of the common people, without any charge, thus encouraging the habit of honest reading. 3°. It takes care that the Word of God be preached, providing, that is, for spiritual exercises and missions, both in the countryside and in the suburbs. 4°. If any churches are so poor that they cannot offer due worship to God, it assists them with money.

[*Latin ed. p. 108*]

108 ON THE ASSOCIATION OF CATHOLICS OF ST. FRANCIS OF SALES. 5°. Furthermore, it endeavors, as far as it is able, to foster and assist those who are called to the ecclesiastical state. "However, this Association determines that it must above all ensure that nothing is ever undertaken except with the blessing and guidance of the Ordinary, to whom alone it belongs, by virtue of his office, to judge the spiritual needs of the flock, and to safeguard souls; and thus, whatever imprudence zeal might devise, can be easily prevented." The constitution of this Association is very simple: The primary Council, currently residing in Lutetiae, maintains correspon-

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dence by letter with each diocese, with a designated person appointed by the Ordinary, the rector. Just as the works undertaken by the diocese are made known to the primary Council, so too are all the alms of the same Council distributed throughout the diocese. The diocesan and collection rectors establish members from whom twelve shillings are collected annually, just as is customary in societies called the Propagation of the Faith and the Holy Childhood. "While these organizations widely spread the Kingdom of Christ, the Association of St. Francis of Sales, rather than causing harm, serves as a complement and an excellent aid. For the more pure the Faith is, and the more vigorously it flourishes in Catholic lands, the greater the zeal with which each person will strive to spread that same Faith; which, of course, does not occur where the Faith has either vanished or is weakening." This is the tenth year since almost all the Ordinaries of Gallia, and many in Italia and Sicilia, canonically approved and established this Society. Some among the Helvetii and Belgi have recently established it, or are about to establish it. From the month of May of the year 1857, when, under the auspices of the Blessed Virgin, it happily arose in Lutetiae, until the same month of the current year, it has distributed approximately one million silver francs. "Wherever this Society is established, a general Council, composed of clergy and lay people devoted to the Church and to the Holy See, maintains frequent correspondence with the primary Council in Paris, solely for the purpose of reporting annually, with due diligence, the receipts and disbursements, as well as the activities undertaken by the members, while preserving the statutes of the Society, which have been approved by the authority of the Holy See, in all places."

[*Latin ed. p. 109*]

OF THE CATHOLIC ASSOCIATION OF ST. FRANCIS OF SALES. 109

"That excellent undertaking has already been favorably fostered from the beginning, and encouraged to greater things, first by a letter from the Secretary, and then by an Apostolic Brief dated December 13, 1859, by which the members were granted most generous indulgences, together with the Apostolic blessing. And afterwards, the Most Holy [Father] wished to further increase and most generously expand this most excellent treasure of heavenly graces. " We are now certain, Most Holy Father, that if that pious Society, provided it enjoys repeated and more solemn confirmation from the Apostolic See, should continue to progress, it will become exceedingly powerful in restoring the piety and faith of the faithful, and thus, with the entire clergy, it will fight with greater vigor and effectiveness against unbelievers, heretics, and all other enemies of the Church. Perhaps a path will be prepared for the return to the Church for many heretics, rationalists, and indifferent persons, who either miserably suffer from the tedium of doubt, or who already thirst for the truth. " Therefore, We, the Presidents and those assisting the Presidents, humbly beseech Your Beatitude

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to grant, with heavenly indulgences, by which they already enjoy, first, that the Catholic Association of St. Francis of Sales may be canonically erected with Apostolic benevolence; and then, that the members may be more and more encouraged to frequent the Eucharist, and may receive, through the mercy of God, a Plenary Indulgence and remission of all their sins, which may be gained each week by all who, truly penitent and having confessed, receive the Most Holy Sacrament of the Eucharist. For this grace, etc."

RESPONSE. "Our Lord, Pope Pius IX, in an audience granted to the undersigned Cardinal Prefect of the Sacred Congregation for Indulgences and Sacred Relics, on March 10, 1868, having carefully considered how much benefit can arise for the Christian people from the aforementioned pious Union, named after St. Francis of Sales, He commended it, and its purpose, in the most excellent words, although something must be left to the authority of the Sacred Prelates of the place, especially for that place.

[*Latin ed. p. 110*]

Concerning the Association of Catholics of St. Francis of Sales: It is understood that the canonical erection within each diocese is to be carried out. Furthermore, the aforementioned Pious Association trusts that those who are to strive for it will, with ever-increasing zeal for religion and devotion to charity, diligently pursue the intended goal, which is the glory of God and the edification of the faithful. In order that the members themselves may be encouraged to more frequent use of the Sacraments, His Holiness has graciously granted them, in perpetuity, in addition to the indulgences already obtained from the Apostolic See, the opportunity to gain a plenary indulgence, applicable also to the deceased, twice in each month, provided that, for each occasion, they are truly contrite, have confessed, and have received Holy Communion, and that they devoutly visit some church, and there, for a certain period of time, offer pious prayers to God for the extirpation of heresy, the propagation of the faith, and for the exaltation of the Holy Roman Church and for its happy state. This [decree] is valid without any further delay. Given in Rome, from the Secretariate of the same Congregation, on March 10, 1868. A. Card. BIZZARRI, Prefect. A. Colombo, Secretary.

[*Latin ed. p. 111*]

FROM THE HOLY CONGREGATION OF THE INDEX. DECREE. — On the eleventh day of the month of August, in the year of Our Lord one thousand eight hundred and sixty-eight. The Holy Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Pius IX, and the Holy Apostolic See, concerning the Index of books of pernicious doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian Republic, having met in the Vatican Palace, condemned and condemns, proscribes

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and proscribes, and orders that the following works be referred to the Index of prohibited books: *Essai sur le oeuvres et la doctrine de Machiavel, avec la traduction littérale du Prince, et de quelques fragments historiques et littéraires; par Paul Deltuf. Paris. G. Rain wald, Libraire Editeur 1867.* *Catecismo Politico Costitucional escrito por Nicola Pizarro. Tercera edición. Méjico imprenta de Ignacio Cumplido 1867.* Therefore, no person of whatever rank and condition, in any place, and in any language, may henceforth dare to publish, or to read or retain, the aforementioned works, but rather they are bound to deliver them to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of prohibited books. These things were brought to the attention of the Most Holy Pope Pius IX by me, the undersigned, Secretary of the Holy Congregation. Concerning the matters related, the Holiness, whose faith, etc. Approved this Decree in Rome on the second day of September, one thousand eight hundred and sixty-eight. ANTONINUS Cardinal DE LUCA, Prefect of the Place. [Seal] Fr. ANGELUS VINCENTIUS MODENA, of the Order of Preachers, Secretary of the Holy Congregation of the Secret. On the third day of September, one thousand eight hundred and sixty-eight, the aforementioned Decree was affixed and published at Santa Maria sopra Minerva, at the doors of the Basilica of the Prince of the Apostles, the Palace of the Holy Office, and the Curia Innocentiana, and in other customary places in the city, by me, Aloysius Serafini, Apostolic Curs. Philippus Ossani, Mag. Curs.

[*Latin ed. p. 112*]

116 FROM HISTORICAL DOCUMENTS. In the Consistory, the same Church of Coro was proposed for the honor of being a cathedral, as previously mentioned, and which had been vacant since its original establishment; to which was appointed the Reverend Victor Joseph Diez, a priest from Coro, who had previously held various ecclesiastical offices, either in the care of souls or in the administration of the diocese. Coro, a city in the province of the same name, located in the southern part of Venezuela, not far from the coast of the North Atlantic Ocean, is inhabited by approximately eight thousand people. Its parish church, recently elevated to the status of a cathedral by His Holiness Clement VII, is dedicated to Saint Anne and is a suffragan of the Archbishop of Venezuela, Saint James. A chapter will be established, consisting of the dignity of Archdeacon, and four canons, along with a theologian and a penitentiary; in addition, two or at least one canon will be appointed by grace, and a suitable number of chaplains or mansionaries, and administrators will be added. The care of souls is exercised by the parish priest in the cathedral, where there is a baptismal font, etc., and outside the city, there is a cemetery. The episcopal palace is still lacking, and the Bishop will reside in a building provided by the government. The revenues, as recorded in the Treasury books, amount

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to 33,000 Florins, which the government is obligated to pay. Furthermore, there is the parish church of Coro, equipped with a baptismal font, and three dependent chapels; however, there is no charitable institution, and a seminary will need to be established. The extent of the diocese extends to three hundred leagues, encompassing numerous cities and towns.

THE METROPOLITAN CHURCH OF GUADALAJARA, located in the territory of Mexico in North America, is vacant due to the death of the Most Reverend Peter Espinosa, the last Archbishop. To which was appointed the Reverend Peter Loza, formerly the Bishop of Sora. Guadalajara is a large city in the territory of Mexico, located in North America, in the province of the same name, and enjoys a pure and healthy climate, and is inhabited by approximately one hundred thousand Catholic inhabitants. The Metropolitan Church is a beautiful and elegant structure, dedicated to the Assumption of the Blessed Virgin Mary, and has four suffragan bishops. Its chapter consists of five dignitaries (of which the first, after the pontifical office, is the Deanery), five canons, four beneficed portioners, and other priests and clerics who dedicate themselves to the service of God. The care of souls is exercised by the parish priest, assisted by some chaplains, in the church attached to the Metropolitan Church, where there is a baptismal font, etc., and outside the city, there is a cemetery. Four other parish churches in Guadalajara are equipped with baptismal fonts, as are seven monasteries for men and six for women, as well as several lay sodalities, two hospitals, a charitable institution, and a seminary. The extent of the Archdiocese is very wide, encompassing numerous places.

THE CATHEDRAL CHURCH OF YUCATAN, located in the territory of Mexico in North America, is vacant due to the death of the Most Reverend Joseph Mary Guerra, the last Bishop. To which was appointed the Reverend Leander Rodriguez de la Gala, a priest of the Yucatan diocese, who, as a doctor of sacred theology, has diligently performed works for the good of the faithful, and has been appointed a canon, and has also served as the Apostolic Administrator during the vacancy. Yucatan, from which the diocese takes its name, is a province of North America, and its principal city is Mérida, which is decorated with a bishopric and is located in the plains of Mexico, and contains forty thousand or more inhabitants.

[*Latin ed. p. 113*]

FROM HISTORICAL RECORDS.

1. Segorbia, or Segobriga, a city of the kingdom of Valencia, in Spain, in the Tarragona region, and specifically in the Castiglione delle Stiviere province, located near the Turulim River, is inhabited by thousands of families and six hundred households, and is under the temporary dominion of the Most Serene Queen Catholica. The Cathedral Church, a sufficiently

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large building, is dedicated to the Assumption of the Blessed Virgin Mary, and serves as a suffragan to the Archbishop of Valencia. However, the Episcopal See of Segorbe was transferred to Castiglione delle Stiviere according to the Apostolic Letters "Ad Vicariam" dated September 9, 1854, by which its Chapter must include five dignities (of which the first, after the pontifical office, is the highest Deanery), four canonries with a theologian and penitentiary, seven honorary positions, and twelve benefices. The care of souls is exercised in the Cathedral, where there is a baptismal font, etc. No other parish or collegiate church is found in Segorbia, nor is there a house of piety, but there are only two monasteries for women, and a seminary. The extent of the diocese extends approximately sixteen leagues in latitude and seven leagues in longitude, and includes several parishes and towns.

The Cathedral of Oviedo was vacant due to the transfer of the Reverend Father Joseph Louis Montagut to the See of Segorbe; he was appointed as its rector by the Most Reverend Father Benedict Sans y Fores, a priest of the Archdiocese of Valencia, by the grace of His Holiness, at the presentation of the Most Serene Queen Catholica. The same, after holding several ecclesiastical offices, and having been promoted to the doctorate in sacred theology and canon law, had finally renounced his position in the Sacred Rota. Oviedo is an ancient city of the Principality of Asturias, and the capital of the homonymous province, built in a pleasant and fertile location not far from the Cantabrian Sea, and contains over two thousand houses, and is inhabited by approximately four thousand people, and is under the temporary dominion of the aforementioned Most Serene Queen Catholica. The Cathedral Church boasts a magnificent Gothic structure and is dedicated to the Holy Savior, and according to the Apostolic Letters "Ad Vicariam" dated September 9, 1851, it must serve as a suffragan to the Archbishop of Compostela. According to previous Apostolic Letters, its Chapter must include six dignities (among which is the Abbot of the Sanctuary of Covadonga, located in the caves of the Ausenii mountain, and after the pontifical office, the first is the highest Deanery), four canonries with a theologian and penitentiary, eleven honorary positions, and sixteen benefices. The Bishop appoints from the Chapter a Major Chaplain to administer the sacraments to the faithful of the Church of Oviedo, where there is a sacristy, etc. Three parish churches are found in the city of Oviedo, and one baptistery with a font, as well as several lay sodalities, several hospitals, and two seminaries, one of which is located outside the city; however, a house of piety is lacking. The extent of the diocese extends approximately thirty leagues in latitude, and includes the Collegiate Church, a college for missions of the Order of Saint Dominic, and ten monasteries for women, and encompasses several locations and over one thousand parishes.

The Cathedral of Málaga was vacant due to the death of the Reverend Father John Nepomucene Castellana and Ordonez; the Reverend Father Stephen Joseph Perez Fernandez, formerly the Bishop of Coria, was

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transferred to it at the presentation of the Most Serene Queen Catholica. Málaga is a beautiful city of Andalusia, and the capital of the homonymous province, located on the Mediterranean coast and near the mouth of the Málaga River, and is inhabited by over twenty-six thousand people.

[*Latin ed. p. 114*]

FROM THE CONSISTORIAL ACTS, the families reside under the temporary dominion of the aforementioned Most Serene Queen of Catholica. The Cathedral Church, a spacious and magnificent structure, dedicated to the Assumption of the Blessed Virgin Mary, according to Apostolic Letters, must assist the Archbishop of Granada. Its Chapter, according to previous Apostolic Letters, must include six dignitaries (of whom the first, after the pontifical, is the Dean), four canons by office, eleven canons by grace, and sixteen beneficed canons. In the parish of the Cathedral Sacristy, which is adjacent and equipped with a baptismal font, the care of souls is exercised by two assistants. Nine parish priests are counted for churches with baptismal fonts, ten for monasteries for women, and nine others within the diocese, along with two hospitals, two homes for the poor, several lay sodalities, a pawnshop, and two other institutions. The extent of the Diocese is quite wide, encompassing more than one hundred and thirty parishes.

THE CATHEDRAL CHURCH OF CATEAREN is vacant due to the transfer of the Reverend Father Mark Calogerà to the Cathedral See of Spalato; he is succeeded by the Reverend George Marchich, a priest of the Diocese of Spalato, appointed by the Most Holy Father at the request of His Imperial and Royal Majesty, Emperor of Austria, King of Bohemia and Hungary, and also King of the Kingdom of Dalmatia, by virtue of an Apostolic Indult. This same man, after performing other distinguished services, served as Professor of Dogmatic and Moral Theology in the Seminary, as Rector, as a member of the Ecclesiastical Tribunal, and as a Consultant of the Metropolitan Forum, and finally, he was appointed Canon in honor and among the secret chamberlains of the Most Holy Father.

The city of Cathanim, located in Dalmatia, is built at the foot of the mountains on a plain, has a circumference of approximately one mile, contains about six hundred houses, and together with the suburb of Spigliari, is inhabited by approximately three thousand citizens, of whom half profess the Catholic religion under the temporary dominion of the aforementioned Most Serene Emperor and King. The Cathedral Church, of ancient and elegant structure, is dedicated to the Martyr Saint Tryphon and assists the Archbishop of Spalato. Its Chapter, although it should be constituted according to the Apostolic Letters "Locum Beati Petri" promulgated by His Holiness Pope Leo XII on June 29, 1828, which stipulate that it should consist of the dignities of Prelate and Dean, four titular canons, four honorary canons, and four vicars or prebends, currently only includes four canons, among whom the Prelate holds the first dignity after the pontifical, and two

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choral vicars, who also serve as cooperating parish priests; a theological and penitential prebend is desired. The care of souls in the Cathedral is exercised by a Canon as Vicar General, where there is a baptismal font, etc., and among the relics of the saints, the head and bones of the body of Saint Tryphon, the patron of the city and diocese, and the head of Saint Chrysogonus the Martyr are decently preserved, and outside the city there is a cemetery. There is no other parish church found, but a collegiate church, to which an Abbot and seven prebendaries belonged, which now lacks all ministers, along with two monasteries for men, two lay sodalities, and a home for the poor; a seminary and a pawnshop are desired. The extent of the Diocese extends to approximately twenty-nine thousand paces, encompassing two cities and several other locations.

THE CATHEDRAL CHURCH OF CANARIEN is vacant due to the transfer of the Reverend Father Joachim Lluch and Garriga to the See of Salmantina; he is succeeded by the Reverend Joseph Maria de Urquinaona, a priest of the Diocese of Gades, appointed by the Most Holy Father at the presentation of the Most Serene Queen of Catholica.

[*Latin ed. p. 115*]

FROM MY RECORDS: He was promoted to the doctorate of sacred theology, and after holding several offices in the care of souls, he became a vicar and archpriest of the cathedral, from which he has now retired. In the Canary Islands, there is a city called Palma, which is the capital of the island of Gran Canaria, a large island and the seat of an episcopal see. This city, built on the coast of the Atlantic Ocean, is inhabited by approximately four thousand people and is under the temporary jurisdiction of the Most Serene Republic of Cattolica. The cathedral church, quite spacious and solid, dedicated to Saint Anne, has a Gothic structure and is a suffragan of the Archbishop of Hispalensis. Its chapter is required by Apostolic Letters entitled "Ad vicariam" dated September 9, 1851, to include five dignitaries (of which the first after the pontifical is the deanship), four canons by office, seven honorary canons, and finally, twelve beneficed members. In the parish of Saint Augustine, there is a sacristy, and the care of souls is exercised in the cathedral, where there is a baptismal font, etc., and among the relics of the saints, the skull of Saint Joachim is preserved. Furthermore, there are two other churches in the city of Palma, equipped with baptismal fonts, a monastery for women, several lay sodalities, two hospitals, a hospice, and a seminary; however, a house of piety is lacking. The territory of the diocese encompasses three islands: Gran Canaria, Fuerteventura, and Lanzarote, and includes several other parishes.

THE CATHEDRAL CHURCH OF DURANGO, located in the Mexican territory of America Septentrionalis, is vacant due to the death of the Most Reverend Joseph Anthony Laureau of Z;ibiria, the last bishop. The Reverend Joseph Vincent Salinas, a priest of the diocese of Antequera, has been

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appointed to this see. He is deeply devoted to the care of souls and has previously relinquished the dignity of cantor. The city of Durango, located in the Mexican territory of America Septentrionalis, is built on a plain at the foot of the mountains and has a large area, containing over thirty thousand inhabitants who profess the Catholic religion. The cathedral church, a spacious and beautiful structure, dedicated to Saint Matthew the Apostle, is a suffragan of the Archbishop of Guadalaxara. Its chapter includes three dignitaries (of which the first after the pontifical is the deanship), four canons with stipends, two full and two half portionaries, and other priests and clerics engaged in divine service. The care of souls is exercised in the cathedral, where there is a baptismal font, etc. In addition, there are two other parish churches in Durango, equipped with baptismal fonts, a monastery for men, several lay sodalities, a hospital, and a seminary; however, a house of piety is lacking. The territory of the diocese is very extensive and includes many other locations.

THE CATHEDRAL CHURCH OF COREN: The Most Holy Pope, through Apostolic Letters entitled "Ad universam agri Dominici curam" dated March 9, 1863, following the recent dismemberment of the episcopal see of Emeritensis, erected a cathedral church in the city of Barquisimeto, in the territory of Venezuela, America Meridionalis, which had not previously had an ordinary. However, by a subsequent decree of the Sacred Congregation Consistorial, beginning with the words "Apostolicis Litteris sub plumbo," approved by the Most Holy Pope on August 14, 1867, the episcopal see of Barquisimeto was suppressed, then transferred, and a new see was established in another city called Coro. Hence,

[*Latin ed. p. 116*]

H2 FROM THE CONSISTORY ACTS. APPOINTMENTS OF BISHOPS AND DESCRIPTIONS OF THE CHURCHES TO WHICH THEY ARE APPOINTED. June 22, 1868. The Most Holy Lord N. in a secret consistory held on June 22, 1868, after having delivered two addresses, one of which proposed the publication of the Bull of Indiction of the Ecumenical Council, and the other concerning matters pertaining to religion in the Austrian Empire, proposed the following churches: THE CATHEDRAL CHURCH OF SABINA, with the abbatial title annexed to the Church of Saint Mary of Farfa, which became vacant through the death of the Most Reverend and Most Illustrious Hieronymi, formerly of the Most Holy Roman Church, Cardinal de Andrea, the last Bishop of that See in the Roman Curia: this was desired by His Eminence and Most Reverend Lord Charles Augustus, of the same Most Holy Roman Church, Cardinal Priest of Saint Cecilia, and Commendatory of Saint Anastasia, but with the aforementioned title and commendatory office relinquished. In the province of Sabina, from which the Episcopal See takes its name, is found the ancient Cathedral Church, formerly the residence of the Pastors of Sabina, dedicated to the

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Blessed Virgin Mary, assumed into Heaven, which was later united by Pope Leo X to the Church of Saint Liberator, Bishop and Martyr, in the city of Malleani, and is immediately subject to the Apostolic See. The city of Malleani contains approximately five hundred houses, and is inhabited by nearly three thousand people, all of whom are obedient to the same Apostolic Holy See, both in spiritual and temporal matters. The Chapter of the same Cathedral Church numbers three dignities (of which the first, after the Pontifical office, is the Archpresbyterate), thirteen Canons with their respective benefices, eight other beneficed priests, and other priests and clerics who devote themselves to the work of God. The care of souls is exercised in the Cathedral by the Archpriest, where there is a baptismal font, etc. Outside the city, there is a cemetery. Furthermore, in the city of Malleani, there are three parish churches, one equipped with a baptismal font, one for men, and another for women, a monastery, several lay sodalities, a conservatory for girls, a pawnbroker's, and a seminary. The extent of the diocese, according to the most recent delineation, extends to approximately forty-two leagues, and includes more than twenty places. THE CATHEDRAL CHURCH OF SEGOVBCEN, which became vacant through the death of the Most Reverend and Most Illustrious Joachim Hernández and Herrero, the last Bishop of that See: to this, the Reverend Father Joseph Louis Montagut, formerly Bishop of Ovat, was transferred by the benevolence of the Most Holy Lord N., for presentation to the Most Serene Queen of the Catholics.

[*Latin ed. p. 117*]

FROM THE ACTS OF THE CONSISTORY. There are thousands professing the Catholic religion. The Cathedral Church, sufficiently large and of excellent construction, dedicated to Saint Alphonsus, serves as a suffragan to the Archbishop of Mexicana. Its chapter numbers three Canons, with each having a benefice assigned; among these, the highest office after the pontifical dignity is the Deanery; ten Chaplains or beneficiaries, and other priests and clerics serving in the divine ministry. The care of souls is exercised by two Rectors in the Cathedral, where there is a baptismal font, etc. Several other parishes are mentioned, each equipped with a baptismal font, as well as a few monasteries and religious houses, some lay sodalities, a hospital, and a seminary; but a house of piety is desired. The extent of the diocese is very wide, encompassing the province of Tabasco, and including many other places.

THE CATHEDRAL CHURCH OF QUERETARO in the territory of Mexicana, in North America, is vacant due to the death of the Most Reverend Bernard Garate, the last Bishop of that see. The Reverend Raymund Canacho, a priest of the Archdiocese of Guadalajara, has been appointed to it. He is a Doctor of Sacred Theology, who has diligently performed many duties for the good of the faithful, and has been honored with a scholastic

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dignity in the Metropolitan See of Mechoacan.

- 117 The city of Queretaro, the capital of the province of Homonym, in North America, is situated in a pleasant and fertile valley, surrounded by mountains, and is inhabited by approximately fifty thousand people professing the Catholic religion. The Cathedral Church, sufficiently large and of excellent construction, dedicated to Saint James the Apostle, serves as a suffragan to the Archbishop of Mechoacan. Its chapter numbers three Canons in office (among whom the highest office after the pontifical dignity is the Archdeacon); one theologian or holding a doctorate; one penitentiary or master; four others; and six Chaplains or beneficiaries serving in the divine ministry. The care of souls is exercised in the Cathedral, where there is a baptismal font, etc. The Episcopal palace has not yet been built, and in the meantime, the Bishop resides in a house provided by the government. Three other parishes are mentioned in that city, each with a baptismal font, one for men and three for women; a monastery; a double college for missions and studies; several pious institutions, and a seminary. A house of piety is desired. The extent of the diocese is very wide, encompassing many other places.

[*Latin ed. p. 118*]

118 FROM THE SECRETARY'S OFFICE OF BRIEF COMMUNICATIONS. BY THE MOST HOLY PAPAL LETTERS, ISSUED BY DIVINE PROVIDENCE, OF OUR HOLY FATHER, POPE PIUS IX, APOSTOLIC LETTERS. WHEREBY THE PRESBYTER CYRINUS RINALDI IS DULY AND SOLEMNLY EXCOMMUNICATED. To the Venerable Brothers, Archbishops, Bishops, and Local Ordinaries, and to the Beloved Sons, Religious Men, and to all other Faithful Christians in the ecclesiastical province of Sicily. PIUS PP. IX. "Venerable Brothers, and Beloved Sons, Health and the Apostolic Blessing. Each of you knows well that We, moved by the supreme duty of Our Apostolic office for the good of the entire Church and the salvation of souls, have been deeply concerned to remove completely the greatest evils and damages that for a long time have afflicted the Churches and the faithful of Sicily, due to a so-called Apostolic Legation and a so-called Monarchy. From the year one thousand eight hundred and sixty-four, We issued Our Apostolic Letters, beginning with the words "Suprema," on the fifth day before the Kalends of February, and on the tenth day of the month of October of the year one thousand eight hundred and sixty-seven, in accordance with Our mandates, according to the custom prevalent in Rome, by which We completely removed and abolished the aforementioned Apostolic Legation, and the so-called Monarchy, together with the Delegate Judge, and his tribunal, and all ministers and officials. In these Our Letters, among other things, We prescribed that after two months from the day of publication and affixation of these same Letters, the said Letters should

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fully have their effect, and affect all, and each individual, to whom they pertain."

[*Latin ed. p. 119*]

APOSTOLIC LETTERS. 119, obliging, and binding, as if they had been personally and specifically addressed to each of you. Know, Venerable Brothers, and beloved sons, with what care and diligence we have striven to provide for the spiritual needs and benefits of these faithful. For we have issued other Letters, sealed with the Fisherman's Ring, beginning with many very important matters, and dated on the same day and year as these Apostolic Letters sealed with lead. In those Letters, we granted you, Venerable Brothers, and other legitimate ordinaries in Sicily, suitable and necessary faculties, and at the same time, we established the manner in which causes pertaining to the ecclesiastical forum could and should be judged and handled. And let none of you be unaware that, on the 15th of the month of October of the preceding year, a representative was sent from our Congregation, which is responsible for the affairs of Bishops and Regulars, at our express command, to deliver a copy of those same Letters sealed with lead to the Priest Cyrinus Rinaldi, who was then serving as judge in the aforementioned court, and to give him a most severe warning. To that priest, Rinaldi, in our name and with Apostolic authority, it was declared that the penalty of major excommunication, already incurred by the very act, would be imposed without any further declaration, a remission of which is reserved to Us alone, except only in the case of death, whenever he should, directly or indirectly, or in any other way, dare to obstruct the execution of those same Letters, or to retain the title of office which he held, or to interfere with the exercise of that office under any title, pretext, or guise, and by any act, even extrajudicial and economic, even through an interposed person. Furthermore, to the same Priest Rinaldi, it was declared that this threat of excommunication in no way diminishes other ecclesiastical penalties and censures, which the Sacred Canons and Apostolic Constitutions impose on those who obstruct the execution of the acts of this Holy See, or who usurp ecclesiastical jurisdiction, or who disturb the free exercise of the authority of Bishops. And the same Priest was also repeatedly warned, in our name, to seriously consider, with a clear conscience, the acts committed through abuse, which he had permitted in the past, especially concerning his priestly condition, and to fear the most severe judgments of God.

[*Latin ed. p. 120*]

120 APOSTOLIC LETTERS. "Indeed, even if the same Priest Rinaldi has received the warning, and Our aforementioned Letters sealed with lead, which were widely disseminated through public Roman, Florentine, and Sicilian newspapers, and almost all periodicals, nevertheless, he has com-

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pletely abandoned his duty, and has become so reckless and audacious that, completely disregarding Our supreme authority, and that of the Apostolic See, and plainly despising the penalty of major excommunication, he has not feared to continue, with a truly sacrilegious and abominable audacity, to intrude upon the office of judge of the aforementioned so-called Monarchy, which We have completely abolished and removed, and to exercise acts that are entirely null and void, to the great scandal of the faithful, to the detriment of souls, and to the grievous injury and vexation of Bishops. It is certainly tedious to recount here the individual acts of usurped jurisdiction which the aforementioned Priest Rinaldi, after receiving Our Letters and warning, has most audaciously committed, and who also threatens You, Venerable Brothers, with pecuniary penalties. Therefore, in such stubbornness, and in such a pernicious defiance of this Priest, in order to defend Our supreme authority, and that of this Holy See, to vindicate the authority and jurisdiction of the Bishops, to remove such a great scandal, and to care for the salvation of the faithful of Sicily, we have, with great regret, nevertheless deemed it necessary to undertake that measure which is available according to the prescription of the Sacred Canons, and according to the example of Our predecessors, the Roman Pontiffs, namely, to draw the sword with which God has armed Us for the defense of religion and justice. Wherefore, by the authority of Almighty God, and of the Holy Apostles Peter and Paul, We solemnly and expressly excommunicate and anathematize the aforementioned Priest Cyrinus Rinaldi, who, by virtue of the aforementioned warning, has already incurred the penalty of major excommunication, and We decree and declare that he shall be separated from the body of the Church, and shall be utterly avoided by all. May God, who is rich in mercy, grant that this unhappy Priest may be healed by this sharp, but necessary, remedy applied by Us, and that he may recognize his most grievous errors, and may, with sincere and salutary repentance, seek the good of his soul, lest We be compelled to proceed further.

[*Latin ed. p. 121*]

APOSTOLIC LETTERS. 121 "Finally, on this very occasion, We again encourage you, Venerable Brothers, to persevere with greater zeal, relying on divine assistance, in this time of great turmoil and injustice, fearlessly defending the cause of God and His Holy Church, and diligently caring for the salvation of the flock entrusted to your care. And you, beloved Sons, We urge you again and again to diligently avoid the treacherous snares of our enemies, and to walk with ever greater haste along the paths of the Lord, and to walk worthily before God, pleasing Him in all things, and bearing fruit in every good work. And as a pledge of Our most sincere benevolence, We impart to you, Venerable Brothers, and beloved Sons, with heartfelt affection, the Apostolic Blessing." "Given at Rome, near St. Peter, under the Fisherman's Ring, on the 28th of July, in the twenty-third year of Our

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Pontificate," (1) N. CARD. PARACCIANI CLARELLI. (1) The Apostolic Letters, in the form of a Bull, as well as in the form of a Brief, and also the Monitum, of which mention is made in these Letters, are presented in Vol. III, pages 177, 186, 431.

[*Latin ed. p. 122*]

122 APPENDIX II. CONFIDENTIAL LETTER. FROM CARDINAL PROSPER CATERINUS, PREFECT OF THE CONGREGATION OF THE COUNCIL OF TRENT, WITH THE APPROVAL OF THE MOST HOLY FATHER, SENT TO THE BISHOP N. ON APRIL 8, 1864, CONCERNING A CERTAIN CANONICAL THEOLOGIAN WHO IS PERPETUALLY DISTURBED REGARDING THE CIVIL AUTHORITY OF THE POPE.

(Version from the esteemed and Reverend Lord: "In the excellent letter, esteemed and Reverend Lord, which reached me on the 4th of the present month of April, I found a copy of the letters which the Canon Theologian N. gave to you; and having read them, you can easily infer how I was affected. "

However, I must admit that, from the tenor of these same letters, I believe I have reason to judge that he is not corrupt of heart; and that his obstinacy in refusing to retract stems more from a lack of theological and historical knowledge, than from malice. For he indeed protests that he is not obstinate, and asks to be instructed in new doctrines, which he believes were introduced only a few years ago.

"Therefore, esteemed and Reverend Lord, could you not present to him a celebrated collection on the temporal power of the Holy See; in which not only the Allocutions and Encyclicals of the Holy Father are found, but also the letters of almost all the Bishops of the world? In it, he would find abundant and necessary documents, from which he could easily adopt this reasoning: The Roman Pontiff and the Bishops, or, which is the same thing, the entire Catholic Church, teach this; why, therefore, should I not listen to it? If I do not listen to the Church, then the censure will immediately fall upon me, as it is written: And if he will not hear them: tell the church. And if he will not hear the church, let him be to thee as the heathen and publican."

Since the Pope speaks, who is the universal Magister, and who represents the person of Jesus Christ, who would dare to oppose him, and refuse to subject his intellect, whether he understands or not, to the force of his words and the reason of his precepts? And although in the present question, no article directly pertaining to the Faith is at stake, is it not fitting to listen to the voice of the Supreme Pastor? Who is there who does not know that, besides those articles which are strictly called dogmas of the Faith, there are others pertaining to the Faith, and even moral precepts, such as, for example: You shall not steal?"

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If you, esteemed and Reverend Lord, do not wish to provide this Theologian with the necessary instruction, you will be able to entrust this task to his Confessor, or to another.

[*Latin ed. p. 123*]

APPENDIX II. To an ecclesiastical man skilled in these matters, so that he may converse with him privately, and, putting on the spirit of charity and patience, endeavor to enlighten him and lead him to good fruit, having first invoked help from on high. » The Canon N. should remember, because of his long life, the time when Napoleon T. invaded the dominion of the Roman Church with arms. He should also remember the Protestants of Pius Y II, and then the excommunication which he inflicted upon the usurpers. Therefore, it is not a new doctrine, nor one introduced only a few years ago, as he believes, but an ancient one. » Indeed, a very ancient one. He should read the work of Orsi, *Sovranità temporale dei Pontefici*, with notes; also Brunengo, *Sovranità temporale dei Papi*; also the pamphlet of Steccanella, *Il valore e la violazione della dichiarazione pontificia sul Dominio della S. Sede*; also Sellarmi, *De Romano Pontifice*, L 5, p. 9, and especially Theiner's pamphlet which is entitled *I due Concilii generali di Lione e di Costanza intorno al Dominio temporale della S. Sede*. And if he should ignore Theiner's pamphlet, he should refer to the Acts of both Councils. He should know that in the first Council of Lyons, under Pope Innocent IV, an end was put to the most bitter war that Frederick II was waging against the Church and its civil dominion, after it had been determined that the excommunication already long ago pronounced against him had not availed anything, since indeed his crimes and usurpations had only increased, since he had invaded several cities of the Roman Church, as is read in the sentence pronounced against him there, and that also the possessions of the Roman Church, namely, the March, the Duchy of Benevento, the Patrimony of St. Peter, I say, that Frederick was solemnly deprived of his kingdom before the Fathers and the Royal Orators, and before his own Defender. This solemn act of the Roman Pontiff and the ecumenical Council clearly demonstrates and confirms the legitimacy and antiquity of the temporal dominion of the Holy See, and its inviolability, suitability, and necessity. Furthermore, he will learn that in the Council of Constance, with no less solemnity, the civil dominion of the Holy See was also confirmed and sanctioned by the condemnation of the propositions of Wycliffe, of which the thirtieth, repeated twice, was formulated with the words: "Sylvester the Pope and Constantine the Emperor erred in granting to the Church." By this condemnation, the Council itself acknowledged the legitimacy of all the possessions of the Church, especially that possession which is the most noble, the most useful, and the most necessary for the free and absolute exercise of the spiritual power of the Roman Pontiff, namely, its temporal dominion. But even now (1) he can read the recently published

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work of Roskovany, *Romanus Pontifex*, Vol. F, where documents are presented concerning the civil principate from the 4th century to the year 1865.

[*Latin ed. p. 124*]

APPENDIX II. That council acknowledged the legitimacy and necessity of this authority; for it assumed the administration of the provinces and the temporal governance of the Church during the interval between the abdication of the preceding pontiffs and the election of the new and legitimate Pope, Martin V; thus, during that time, the Church, deprived of a visible head, was represented by that general council of Constance. This fact, and the exercise of supreme authority by that same council over the provinces of the Church, are evidenced by documents collected by P. Theiner in the aforementioned work. Therefore, the assertion that the temporal authority of the Holy See is a new doctrine, introduced only in recent years, is historically false, and also erroneous in its reasoning; so that those pontiffs who usurped and maintained civil authority over the provinces of the Church would be condemned, as would those two most famous councils, the Council of Lyons and the Council of Constance, which, in word and deed, ratified and sanctioned that authority. Those who assert the contrary renew the error of Arnold of Brescia and Calvin and other heretics (as is read in Natalis Alexander, *Hist. Eccl.*, vol. 7, towards the end of the 11th century, chap. 4, art. 8, on the Arnoldists: and Bellarmine, *loc. cit.*, chap. 10, and Mamachi, in *Del dritto libero della Chiesa*, vol. 1, book 1, chap. 5). They taught that, as they were hostile to the Church and especially to the Roman See, the union of civil authority with spiritual power was alien to the Spirit of the Gospel, a proposition so egregious that it deserves to be condemned as heretical.

However, it seems more appropriate to read the Constitution of Nicholas III, issued on July 18, 1278, which begins with the words "Fundamenta militantis Ecclesiae" (The Foundations of the Militant Church), which is found in Chapter 17 on Elections, section 6, and which appears to offer a solution to the difficulty raised by the Canon. In its opening, it reads: "It seems to have happened miraculously that the authority of Rome should be joined to the Supreme Pontiff. For he is the Supreme Master of Christians, and to him Jesus Christ has given full power to feed, direct, and govern the entire Church. Indeed, for the exercise of this great ministry, and in order that the Pope may freely carry out this universal action, civil authority is useful, and indeed necessary, without which the independence of spiritual power cannot be preserved; for the supreme Legislator of the Church would be hindered and subjected to the same prince who would rule over him, while he, as the spiritual Father of all Christians, is the governor of the consciences of his subjects and the regulator of kings, and should be

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free from the particular advantages of any prince."

[*Latin ed. p. 125*]

IX. And it must be; indeed, it must be free and independent from all; which, of course, could never happen if the Prince were not absolute within his dominion, but were subject and dependent on another empire. Without this dominion, the Pope would neither be nor appear to be free from external pressure: hence it would happen that his definitions and pronouncements could often not be accepted because of the opposition of the Prince to whom the Pope was subject, if that Prince considered such things contrary to the interests of his own principality; and if they did not seem contrary, suspicions, contentions, and pretexts would easily be aroused in other Princes, and neither fidelity nor the due reverence would be rendered. Hence, Nicholas III, in the aforementioned Constitution concerning the dominion of the Popes, rightly constructs the freedom and independence of the Apostolic Ministry as the principal reason for this dominion, with these words: "It does not seem just that where the heavenly Emperor instituted the principate of the priesthood and the head of the Christian religion, the earthly Emperor should have power; rather, the See of Peter, already placed in Rome on its own throne, should possess full freedom in all its actions, and should be subject to no man, which is known to all by divine law." To this, the same Pope adds other considerations as well, and he particularly takes into account the utility and necessity of civil dominion in the Roman Pontiffs for the greater and greater good of the universal Church.

If anyone were to object that civil principality, as it was not necessary in former centuries of the Church, so it is not necessary in these times, he would show himself ignorant of the ways of the Lord. He who works all things suavely and powerfully, works also in his own times, and in those ways which he judges best to employ in his infinite wisdom. Let us hear what Bellarmine writes in the aforementioned passage, chapter 9: "And although it would seem that the Popes should deal only with spiritual matters, and the Kings with temporal matters, experience proclaims, not only that it has happened, but that it was necessary, and by a special providence of God, that Popes and other Bishops should have some temporal principalities. For if the Bishops in Germany had not been Princes, none would have remained in their sees to this day." "Just as in the Old Testament, for a long time, the Pontiffs were without temporal power, and yet in the last times, religion could not stand, nor be defended, unless the Pontiffs were also Kings, namely, in the time of the Maccabees; so also we see that it has happened to the Church, that whereas in the early times it did not seem to need temporal power to defend its majesty, now it seems to need it just as

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much."

[*Latin ed. p. 126*]

126 APPENDIX H. "To this second Constitution, which is the most well-known and also the most ancient, must be added the Bull, which is called *In Coena Domini*, in which those who invade the cities and territories of the Holy See are expressly excommunicated." "Nor should we omit the Bull of the great and holy Pope Pius V, which begins with the words *Admonet* on the 29th of March in the year 1567. This Pope, knowing that temporal dominion was not only inconvenient, but also detrimental, and even necessary, and wishing to promote it in every way possible, forbade any alienation, commutation, or even enfeoffment, even under the pretext of necessity or obvious utility; and he imposed very severe penalties, both on Cardinals and on all others, and declared that they would incur excommunication by the very fact of suggesting or advising such alienations to the Pope at the time: *ibid.* Those who suggest or advise such things incur the sentence of excommunication, from which they cannot be absolved unless by the Pope himself. He also decreed that all new Cardinals should swear an oath to observe this Constitution, "nor should they consent to anything contrary to it, or seek or accept absolution from the oath given...and those who act contrary to it shall incur the penalty of perjury and perpetual infamy, both in law and in fact." Moreover, this holy Pope, after saying, "What is permitted to us, we declare to our successors, whom we hope will not forget," he, with incredible diligence and ingenuity, took care to ensure the inviolable observance of this Constitution even in his successors, ordering the Cardinals assembled in the Conclave to renew their oath to observe it, so that "through each of them who is elected as the Roman Pontiff, and afterwards assumes the highest office of the Supreme Pontificate, after his assumption of office, he himself must also swear this oath, and then, after his assumption, he must reaffirm his promise and oath of this kind through his special confirmatory letters." "These are indeed ancient and very important examples of authentic documents, and if others were to appear, which we omit, if they are properly explained and expounded by a wise man, it cannot be denied that they will convince and demonstrate the Canonic Law, if indeed that man is a man of good faith and of sound judgment. Indeed, he must acknowledge and marvel at the wisdom and justice with which the glorious Pope Pius IX, in his Address on June 20, 1859, and subsequently in the Encyclical of January 19, 1860, pronounced the following sentence: "By the singular counsel of Divine Providence..."

[*Latin ed. p. 127*]

IX. It is fitting that, amidst so great a multitude and variety of temporal rulers, the Church of Rome also should not be subjected to the temporal dominion of anyone, so that the Pope, the Supreme Pastor of the entire

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Church, who has never been subject to any ruler, may freely exercise the supreme power and authority, received from Christ the Lord, to govern and guide the entire flock of the faithful throughout the world, a power which is clearly evident, and that he may, with greater ease, propagate the divine religion more and more, and provide assistance to the various faithful, and accomplish all other good things which he knows to be beneficial to the entire Christian commonwealth.

It behooves a Canon theologian to seriously consider that the Arnaldists, who boast of being fervent Catholics and lovers of the people, are in reality the cruelest enemies of the people themselves, and even more so of the Church; and that, in order to more easily undermine the civil authority of the Pontiffs, which is the most ancient and, above all, the most legitimate, and which provides for the well-being of all, they introduce, under the vain and specious name of love of country, a civil principate, knowing full well how much this principate is necessary to preserve for the Supreme Ruler of the Church that independence which is necessary for him to exercise his apostolic ministry throughout the world, hoping that, once the civil principate is abolished, they will be able to easily abolish the spiritual power and authority of the Supreme Pontiff; or, at the very least, to weaken his spiritual influence throughout the world, so that this will become their surest prey; and that, subsequently, men will be led into schisms, heresies, incredulity, and even more abominable crimes.

Let the Canon [Theologian] turn his eyes to the deplorable state of Italy, which since the year 1859 has been subjected to such conditions, and I am easily persuaded that he will be deeply saddened and shed tears. Let him see in what distress the Bishops are, some of whom are held in prisons, others exiled from their dioceses, and all of whom are oppressed, or at the very least, are forced to remain silent, so that they cannot even suspend priests who stray from celebrating the Holy Sacrifice of the Mass. Would the Roman Pontiff not be in a better condition than the other Bishops of Italy if he possessed the civil principate? But even worse. What, I ask you, could Pope Pius VII. have done, first held in prison and then transported to foreign lands, and deprived of all means of communicating with his subjects and with all other faithful throughout the world? And why? Because his conscience forbade him to assent to the unjust demands of Napoleon I. These very things were often repeated, and are happening everywhere, daily.

[*Latin ed. p. 128*]

128. It would happen, if either the Duke of Savoy or the King of France were to rule in Rome, that the tranquility would be disturbed, and the efficacy of those concerns would be diminished. A theologian, to whom the Canon N. was entrusted with the task of teaching and instructing, would not be able to remain silent, but would have to acknowledge the agreement,

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the antiquity, the usefulness, the significance, and the necessity of the civil authority of the Pontiffs. I, kissing your hand, confess that I am happy with your pastoral endeavors.

"What, however, are the reasons for these letters?"

"Servant."

"I shall await to learn of the success of these matters; for it is evident from the letter which the Bishop N. wrote to Einum, that the same Bishop recounted to three ecclesiastical men (according to the powers granted to them by the Chapter), that he had concealed certain things within the walls of this cathedral, and that these things should be read aloud before all."

From these things, it can be gathered that:

I. There is a very serious reason, and one pertaining to the unity of the Church, why the civil authority of the Roman Pontiff should be considered throughout the entire world, and why it should be esteemed by the Church and by the Romans. This authority, which has been considered a miracle of divine providence for the Roman Church, must be considered.

II. All endeavors, whether openly devised or subtly planned, against this same authority, must be considered as endeavors to coerce, suppress, and undermine the exercise of that supreme power which has been divinely conferred upon it.

III. The civil authority of the Roman Pontiff is not only convenient, but necessary for the free and unhindered explanation of the supreme power divinely conferred upon him.

Perbelle Barbosa, in *De officio et potestate Episcopi*, Part 1, title 2, chapter 2, defending the civil authority of the Apostolic See from the objections of heretics of that time, wrote this before refuting them: "Let those who oppose tremble," as Hilary of the Trinity, book 4, says: "It is the nature of the Church to be victorious when it is wounded, to understand when it is argued against, to prevail when it is abandoned; to flourish when it is persecuted; to grow when it is oppressed; to profit when it is despised; and to stand firm when it seems to be overcome."

And Augustine, in his commentary on Matthew, says: "The Church has this property, that it may grow until that is fulfilled: It shall rule from sea to sea." And Cassiodorus, in his commentary on Psalm 30, says: "The Church will begin to be more fruitful when it is brought to the end of the world."

[*Latin ed. p. 129*]

129 BY THE MOST HOLY WILL OF OUR LORD, BY DIVINE PROVIDENCE, PAPAL LETTERS To all Bishops of Churches of the Western Rite who have communion with the Apostolic See. PIUS, POPE. "By the secret counsel of Divine Providence, although without any merit of Ours, We are established in this exalted Chair, heirs of the Most Blessed Prince of the Apostles, who, according to the prerogative granted to him by God,

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is the firm and solid rock upon which the Savior built the Church (1), and burdened with the urgent solicitude of this office, We most earnestly desire and strive to extend Our care to all those dwelling in every region of the world who are reckoned by the Christian name, and to excite in Ourselves the most vehement impulses of paternal charity. And We cannot, without grave peril to Our soul, neglect any part of the Christian people, who, redeemed by the most precious blood of Our Savior and brought into the flock of the Lord by the sacred waters of baptism, justly demand all Our vigilance. Therefore, since We must constantly devote all Our efforts and thoughts to the salvation of all who acknowledge and adore Christ Jesus, We turn Our eyes and Our paternal heart towards those Churches, which, formerly united by the bond of communion with this Apostolic See, flourished with such sanctity and heavenly doctrine, and bore abundant fruits of divine glory and the salvation of souls, but now, through the nefarious arts and machinations of..." S. Greg. Nyssen. *Laudatio altera S. Stephani*. Protararch. apud Galland. VI. 600. Acta, tom. ir,/asa. XXXIX. 9.

[*Latin ed. p. 130*]

130 APOSTOLIC LETTERS. "The schisms, which first arose in heaven, have separated and divided those who were united with the Holy Roman Church, which is spread throughout the world, to our greatest sorrow. " For this reason, from the very beginning of Our supreme pontificate, We have spoken to you with all the affection of Our heart, imploring you to return to the path of peace and charity (1). Although these Our words have not, alas, produced the most desired result, We have never lost hope that the most merciful and benign Author of salvation and peace will deign to hear Our humble and fervent prayers, and that He, who worked salvation in the midst of the earth, and who, clearly demonstrating peace to those who dwell in the east, announced it to men of good will through the ministry of angels at its rising, and who, having lived among men, taught, preached, and gave example (2). Now, having recently, with the counsel of Our Venerable Brothers, the Cardinals of the Holy Roman Church, decreed and convoked an Ecumenical Synod to be held next year in Rome, to be begun on the eighth day of the month of December, on the feast of the Immaculate Conception of the Virgin Mary, We again direct Our voice to you, and with all the earnestness we can muster, We beseech, exhort, and implore you to be present at that same general Synod, as your forefathers were present at the Council of Lyons, held by Our predecessor, Pope Gregory X, and at the Council of Florence, held by Our blessed predecessor, Pope Eugene IV, so that, with ancient laws of devotion renewed, and with the peace of the Fathers, that heavenly and salutary gift of Christ, which has been obscured by time, may also be revived (3), and that, after a long cloud of sorrow and a long, dark, and ungrateful fog of discord, the bright light of the desired union may shine forth for all (4). And let this be the

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sweetest fruit of Our blessing: may Christ Jesus, our Lord and Redeemer, grant that His immaculate and most beloved Spouse, the Catholic Church, be..."

(1) Epist. ad Orientales, In Supre-

(3) Epist. L X X . al. CCXX. S. Basilii

ma die 6 Ianuarii 1848.

(2) Epist. B. Greg. X. ad Michaelem Palaeologum Graec. Imper. die 24 Octobr, an. 1272. Magni ad S. Damasum Papam.

(4) Deiin. S. Oecum. Synodi Florent. in Bulla Eugenii IV. Laetentur coeli.

[*Latin ed. p. 131*]

APOSTOLIC LETTERS. 131 He is accustomed to temper himself, and to wipe away tears, and to endure the harshness of times, so that, with all division completely removed, voices that were previously discordant may, with perfect unity of spirit, praise God, who does not will that there be schisms among us, but that all may say and feel the same thing, as the Apostle commanded; and that eternal mercy may be rendered to the Father by all His saints, and especially by those most glorious ancient Fathers and Doctors of the Eastern Churches, as they look down from heaven upon the restored and reunited union with this Apostolic See, the center of Catholic truth and unity, which they themselves, while living on earth, fostered with all their efforts and tireless labors, and which is diffused in their hearts through the charity of the Holy Spirit, through Him who broke down the dividing wall, and through His Blood reconciled and pacified all things, who willed that the sign of His disciples be unity, and to whom the prayer offered to the Father is: "I pray that all may be one, even as We are one." Given at Rome, near St. Peter, on the 8th of September, in the year 1868. In the thirty-third year of Our Pontificate. "BY THE DIVINE PROVIDENCE OF OUR MOST HOLY LORD POPE PIUS IX, APOSTOLIC LETTERS To all Protestants, and other non-Catholics. "You are all now aware that We, although drawn to this Chair of Peter," and therefore, by the highest authority of the entire Catholic Church, entrusted by the Lord Christ Himself with the governance and care of it, have deemed it fitting to summon all Venerable Brothers, the Bishops of the whole world, to Us, and to urge them to attend the forthcoming Ecumenical Council, so that...

[*Latin ed. p. 132*]

132 APOSTOLIC LETTERS. With these same Venerable Brothers called to share in our concern, we can undertake all those plans which are more opportune, or necessary, both to dispel the darkness of so many pernicious errors which, with great detriment to souls, everywhere dominate and spread day by day, and to establish and increase, in the Christian people to whom our care is entrusted, the kingdom of true faith, justice, and true peace of God. And, firmly confident in the closest and most loving

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bond of union by which these Venerable Brothers are wonderfully bound to Us, and to this Apostolic See, a bond which has never failed to offer the most splendid testimonies of faith, love, and obedience to Us, and to the same See, throughout the entire time of Our supreme pontificate, we strive with all our might that, just as in past centuries other General Councils have borne fruit, so too may this Ecumenical Council, convened by Us in this present age, produce abundant and joyous results, inspired by divine grace, for the greater glory of God, and for the eternal salvation of men. "And therefore, animated by this hope, and moved by the charity of Our Lord Jesus Christ, who gave His life for the salvation of all mankind, we cannot but address, through Our Apostolic and paternal words, all those who, even though they acknowledge the same Jesus Christ as Redeemer, and glory in the Christian name, nevertheless do not profess the true faith of Christ, nor follow the communion of the Catholic Church. And we do this, so that with all diligence and charity we may warn, exhort, and implore them to seriously consider whether they are following the path prescribed by the same Christ the Lord, which leads to eternal salvation. Indeed, no one can doubt that Jesus Christ, in order to apply the fruits of His redemption to all generations of mankind, has built here on earth His one Church, that is, one, holy, catholic, and apostolic Church; and has bestowed upon it all the necessary power to safeguard the deposit of faith intact, and to spread that same faith to all peoples, nations, and tongues, so that all may be incorporated into His mystical body through baptism, and so that in them that new life of grace may always be preserved and perfected, without which no one can ever merit eternal life."

[*Latin ed. p. 133*]

APOSTOLIC LETTERS. 133 to attain life, and that the same Church, which has constituted its mystical body, may remain always stable and immutable in its own nature until the consummation of the age, and may flourish, and may provide to all its children all the safeguards of salvation. Now, whoever carefully considers and meditates upon the condition in which the various and mutually differing religious societies are found, separated from the *catholica* Church, which has always exercised, and even now exercises, the divine power entrusted to it by Christ the Lord, and by His Apostles, without interruption, through its lawful and sacred Pastors, will easily persuade himself that none of these, nor all of them together, can in any way constitute, and be, that one and *catholica* Church which Christ the Lord built, established, and willed to be, nor can any of them be called a member, or part, of that same Church, since they are visibly divided from the *catholica* unity. For, since such societies lack that living and divinely instituted authority, which teaches, directs, and governs men in all matters pertaining to the faith and the discipline of morals, and which guides them in all things that pertain

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to eternal salvation, these societies themselves are constantly varied in their doctrines, and this instability and change never cease within them. Everyone easily understands, and clearly recognizes, that this is most contrary to the Church instituted by Christ the Lord, in which truth must always remain stable, and never subject to any change, like a deposit entrusted to that Church, which must be most carefully guarded, for whose custody the presence and help of the *Spiritus Sancti* has been perpetually promised to that Church. No one is ignorant that from these dissensions in doctrines and opinions, social schisms also arise, and from these originate countless communions and sects, which, to the great detriment of the Christian and civil commonwealth, are propagated more and more each day. "For whoever considers religion as the foundation of human society, cannot but recognize, and acknowledge, how much such principles, and the division and disagreement among religious societies, have exerted force upon civil society, and how vehemently the denial of divinely instituted authority weakens the persuasions of human intellect."

[*Latin ed. p. 134*]

134 APOSTOLIC LETTERS. that it may excite, promote, and nourish these most unhappy movements and disturbances of affairs and times, by which almost all peoples are pitiably agitated and afflicted. "Therefore, let all those who do not hold to the unity and truth of the Catholic Church (1), seize the opportunity of this Council, so that the Catholic Church, to which their ancestors belonged, may demonstrate a new intimacy of unity and an impregnable strength of its own life, and, responding to the needs of their hearts, may strive to free themselves from that state in which they cannot be secure of their own salvation. And let them never cease to offer fervent prayers to the Lord, that He may cast down the wall of division, dispel the fog of errors, and restore them to the bosom of the holy Mother Church, in which their ancestors had the nourishing pastures of a blessed life, and in which alone the integral doctrine of Christ Jesus is preserved, transmitted, and the mysteries of heavenly grace are dispensed." Indeed, since, by the office of Our supreme apostolic ministry, which was entrusted to Us by Christ the Lord Himself, We must diligently fulfill all the duties of a good shepherd, and lovingly care for and embrace all the people of the world, We give these Our Letters to all Christians separated from Us, in which We also exhort and implore them to hasten to return to the one fold of Christ; for We most sincerely desire and fear for their salvation in Christ Jesus, and We fear that We may have to render an account to Our Judge, unless, as far as it is in Us, We show them the way and strengthen them to attain that same eternal salvation. In all prayer and supplication, we never cease, day and night, to humbly and earnestly implore the abundance of heavenly lights and graces from the eternal Shepherd of souls. And since We undeservedly exercise His vicariate here on earth, therefore, we ardently await the return of stray

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children to the Catholic Church, so that we may lovingly receive them into the house of the heavenly Father and enrich them with His inexhaustible treasures. For from this most desired return to truth and communion with the Catholic Church, not only (i) St. Augustine, Epistle 61, section 223.

[*Latin ed. p. 135*]

APOSTOLIC LETTERS. "The salvation of each individual, and indeed of the entire Christian society, depends greatly on this, and the entire world cannot enjoy true peace, unless there is one flock and one shepherd." Given in Rome, near Saint Peter, on the 13th of September, in the twenty-third year of Our Pontificate. FROM THE HOLY CONGREGATION FOR THE REINTEGRATION. August 27, 1864. We had omitted this case, which by its nature should have had a place in our publications, because it was treated outside the regular order (1); but since it has been widely disseminated in public publications of France, as can be seen in the *Journal de Paris* on May 4th and 20th, 1868, and in the *Revue critique de législation, etc.*, volume 32, in June 1868, and indeed not without scandal, because a solution has not yet been given for its execution, we will briefly present it. Summary of the facts. John, a priest of the Gallic nation, who had been promoted to the sacred Orders in 1828, diligently performed several parochial duties, so that in 1855 he deserved to be chosen as the pastor of a prominent parish of the first order, a pastor in France called *Cantonaux*, and distinguished from those who are called *Desservants*, who are removable. At this time, certain rumors were spread that damaged John's reputation regarding his good morals. But it is necessary to begin from the beginning. (1) The causes that are treated "outside the regular order" are those that are proposed to the Holy Congregation "outside the regular order" for some external reason, such as so that the cause may not be easily divulged, or because it is to be treated. When a cause is proposed outside this order, it is called a cause treated "outside the regular order."

[*Latin ed. p. 136*]

136. REINTEGRATION. In the year 1840, John received his younger brother, Paul, who had left the seminary, into his home. John, concerned for him, joined Paul in marriage with a young woman named Agnes, and they had two sons. From the documents before us, it does not appear that Paul was endowed with great prudence of judgment. Within the domestic walls, there were some disagreements between the brothers, which, however, concerned family matters. Furthermore, Paul desired to separate himself from John in order to live a free life with his wife and children; therefore, he sought to obtain goods from his brother so that he might live appropriately with his family. However, when John was promoted and transferred from one parish vicariate to another in 1854, a more serious disagreement arose because Paul refused to follow his

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brother, John, with his family. Paul, persisting in this decision, abandoned his wife and children. It is asserted that his wife and children, under the authority of the Church, followed John. John, promoted in 1855 to a prominent parish and appointed as its pastor, also took with him the family that had been abandoned by his brother. At that time, certain suspicions arose regarding the familiarity of the pastor with Agnes; this is derived from some letters that Paul himself wrote to his older brother. For example, in August of 1855, Paul wrote: "It is my duty to declare, between my brother (John) and my wife, that nothing intervenes." This is contrary to good morals: "This is my firm conviction." Furthermore, in another letter to the same older brother in September of 1856, he wrote: "If John were accused of impropriety in his manner of living, or of his relative Agnes, defend them." However, in the same year, 1856, a certain curate of the same parish in which John presided accused John before the local civil authorities of suspected impropriety in his manner of living with Agnes. After an investigation, the civil official, after discussing the matter with the Vicar General of the ecclesiastical court, acquitted the pastor, but advised him amicably to be on guard against calumnies that his adversaries were attempting to spread, and to be prepared for new attacks; for although his adversaries were suppressed, they were not completely defeated.

[*Latin ed. p. 137*]

REINTEGRATIONS. 137 The ecclesiastical court remained silent, as it had done previously. Subsequently, a certain controversy arose among the brethren, that is, between the Parish Priest and Paul, concerning a piece of land which the Parish Priest had given to one of his nephews: Paul vehemently maintained that this property rightfully belonged to him, but the civil judge ruled otherwise, and the Parish Priest emerged victorious. In the meantime, the Ordinary died. His successor considered it necessary to investigate the suspicions that had been raised against the Parish Priest's conduct. Consequently, at the end of the year 1859, the Promotor Fiscal and the Vicarius General initiated a secret and extrajudicial investigation into the Parish Priest's conduct. There exists at least one, if not two, extrajudicial documents (for nothing in this case was treated in the form of a trial) from which it appears that the Promotor Fiscal approached private individuals and, through inopportune and burdensome questioning, in some way compelled them to testify against the Parish Priest (1), although the court later denied this. After this investigation was completed, in the year 1859, the Vicarius General, first verbally and then in writing, urged the Parish Priest to dismiss Agnes from the parochial house. On April 21st, he issued an order commanding him to do so. When the Parish Priest hesitated to comply with this order, on June 16th he received new letters from the same Vicarius.

(1) Nothing is more erroneous and reprehensible in an investigation

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than suggestive, captious, and burdensome questions that compel witnesses, in some way, to say with their words what they do not think, or to implant ideas in them that the Inquisitor holds in his own mind. Thus, in the present case, it is said that, among other things, the Promotor Fiscal questioned Paul, asking: "Are you absolutely certain that these are your children?" (or, in French, "sont à vous?"), a question that reportedly exasperated Paul's spirit. Indeed, investigations are carried out and should be carried out to prepare suitable material for rendering a just judgment, and not to predetermine the judgment, nor to obtain proofs of a preconceived judgment. A prudent and experienced Inquisitor knows how to prepare a suitable network of questions so that the truth may subsequently be elicited by the Judge, beginning even with the most remote questions, which neither the person being investigated nor the witnesses immediately understand; and he must indeed leave full and complete freedom to the persons being investigated or the witnesses, so that they may freely disclose what they know and think, and from what knowledge and reason they think in that way; and also so that they may freely correct themselves if they have expressed something incorrectly. Such an investigation or process will provide suitable material upon which the Judge may subsequently rely to render a just judgment.

[*Latin ed. p. 138*]

188. CONCERNING THE RESTORATION. Agnes was to be released within the prescribed time, under penalty of the deprivation of her faculties. The Parish Priest obeyed these commands, and moved his family and his nephews to the house which he rented at his own expense, located opposite the presbytery, and the matter rested. Two years later, although Agnes had left the Parish Priest's house, the family affairs of the Parish Priest had become complicated. On August 8, 1861, this decree was issued by the Curia: "Considering that the Parish Priest, having neglected repeated warnings, has frequent relations with Agnes, the wife of his brother; and that from this, a grave scandal arises throughout the parish, we prohibit and forbid the Parish Priest, under penalty of suspension and other legal penalties, from receiving Agnes, his brother's family, or from visiting them in their house, or from having any relations with her in any other place." Considering this decree to be unjust and impossible to observe, the Parish Priest appealed to the Ordinary and demanded to be heard; but in vain: for he received such a response: "If I were to see you, I would do nothing other than to urge you to relinquish the parish; but since you are unwilling to do this, the requested congress will produce nothing: it is preferable that things follow their natural course." With his pleas rejected, the Parish Priest requested a canonical inquiry and judgment; but in vain: for the Vicar General responded: "I am well aware of the authority of the diocese, and you have publicly demonstrated your relations with Agnes, your brother's wife;

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therefore, the intention of the diocesan authority is firm, that you must obey without any declaration, the prohibition already issued, which will fully take effect in the case of disobedience." Then, the Parish Priest again approached the Ordinary, and pleaded with him, that having considered the letters and testimonies of the parishioners who testified in his favor, he would admit the evidence against the accusations; but again, he was rejected. When the Parish Priest insisted that the prohibition was unjust, he publicly visited his brother and his nephews, and received them in his house, although less frequently than before. He was therefore summoned.

[*Latin ed. p. 139*]

REINTEGRATIONS. On January 30, 1862, before the tribunal, he committed a violation of the imposed prohibition, and he complained about the Curia, which, he claimed, had believed the calumnies of his enemies, and also about the investigation that had been conducted improperly, defending himself before the tribunal. After the reasons presented by the Parish Priest were rejected by another Public Prosecutor, the President of the Tribunal gave the Parish Priest advice, instructing him to write an act of due submission and to present it to the Ordinary. The Parish Priest readily did this, and at the same time humbly requested that the imposed prohibition be mitigated in some way. The same Tribunal, which had given this advice, held another meeting on February 6th to deliver its judgment: after certain preliminary considerations, it decreed: "By virtue of the powers which the Most Holy Council of Trent grants to the Ordinary, chapter 4, session 14, invoking the Holy Name of God, we declare that John N. has incurred suspension; and, since he has exercised the functions of the sacred Order, he has contracted irregularity." Furthermore, he was ordered to absolutely submit to the imposed prohibition and to abstain from any pastoral or sacerdotal activity until he had obtained absolution from the censure and dispensation from the irregularity. He was also severely reprimanded "for having used words that were not appropriate" concerning the disposition that had been made regarding him, and against the authority of the Vicar General. Under the force of this judgment, the Parish Priest, preferring to be freed from the censures as soon as possible, chose to submit rather than to appeal the delivered judgment. Therefore, the following day, he presented a suppulating to the Ordinary, submitting a document of complete submission, and deploring everything he had done that had not been in accordance with submission. He also sent, through the Ordinary, the prayers to the Most Holy Lord, which had been recommended by the Ordinary, requesting dispensation from the irregularity he had contracted; these prayers were favorably received by the Most Holy Father, who, with a gracious rescript, referred them to the Ordinary. However, the execution of this rescript was delayed, and the Parish Priest, taking advantage of a certain concession, celebrated Mass and administered the solemn Benedic-

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tion with the Most Holy Sacrament to the people; therefore, on March 10th, he again requested dispensation from the irregularity from the Ordinary, and again obtained a favorable rescript from the Most Holy Father. At the time of this second rescript, the Parish Priest had already left the parish of Agnes, as he had promised, having departed on February 28th of that same year, and having moved to another city.

[*Latin ed. p. 140*]

14.0 CONCERNING REINTEGRATION. However, the Ordinary did not make use of the powers granted to him. Indeed, on April 16th, he issued a decree by which he appointed an administrator for the parish "who should alone administer the parish," with the rights and temporal emoluments which civil law grants to an "Ecclesiastical person appointed and substituted by the Bishop in the care of souls." Furthermore, the Ordinary ordered that this decree be publicly posted in the parish. For several days, the Pastor remained silent, and then he wrote a new act of submission and humility, which he sent to the Ordinary, imploring him to be heard, and in this second act of submission, he recalled that he had previously sent letters to the same Ordinary, signed by two hundred prominent members of the parish, in his favor. In response to these pleas, the Ordinary replied on May 23rd: "The only remaining means of bringing this sad dispute to an end... is that you relinquish the parish; but since you do not seem disposed to do so, the matter must follow its own course." On the same day, May 23rd, the Public Prosecutor, having unsuccessfully urged the Pastor to resign from the parish, delivered to him the sentence, already signed on the 15th of the same month, by which the Pastor was deprived of the parish, after having been subjected to eight previous reprimands. In this simple narration, the Reader may already have noticed that it is not necessary to invoke canonical jurisprudence to demonstrate the invalidity of the removal; it is sufficient to know the sequence of days during which the decrees were issued and the Pastor's responses. For after the Pastor had fully submitted to the decrees issued, he was expelled from the parish. However, so that we may not seem to be taking up the Pastor's defense (for nothing we say concerns our own interests, whether the argument favors one side or the other), we will present reasons which support the validity of the removal. We only ask that they not fill our pages without benefit; rather, they will serve to demonstrate the justice of the Resolution issued by the Holy See, which, although ordered for execution by those who perhaps demand excessive obedience from those subject to them, has not yet been carried out, so that the scandal resulting from the violation of due submission to the Supreme Authority greatly outweighs the scandal imputed to the Pastor.

[*Latin ed. p. 141*]

REINTEGRATION. 14*1. This, moreover, was the opinion of the Curia,

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rendered almost verbatim into Latin, to which we shall insert some of our observations. I. "Considering that, in the assessment of our episcopal duties and offices which are inseparable (these last words are superfluous), nothing is more weighty and essential than that of safeguarding, as far as it is in our power, the good governance of any parish (however, according to the measure of the sacred canons) of our diocese, and of ensuring that the Parish Priests, to whom the salvation of souls has been entrusted, demonstrate themselves to be faithful observers of the laws and of the discipline of the Church, avoiding not only that which might give cause for serious reproach, but also all that which might not sufficiently correspond to the ideas which they ought to express, of the dignity and excellence of their mission among the people. II. "Considering that, in the contrary case, when the presence and manner of life of a Minister of Religion exercising pastoral functions in a parish, rather than producing beneficial effects, spread harmful influences, and for the sake of which the Bishop ought to be a defender of the faith, it is our duty, after having fruitlessly attempted all means of preventing the evil or of bringing it to an end (since in the present case, an end had already been imposed by the obedience of the Parish Priest to the decrees of the Curia), to have recourse to the only remedy which can break the course, namely, to the regular deposition of the Parish Priest, who might be found to be involved in these circumstances. III. "Considering that the parish of N., which has been governed for seven years by John, has suffered greatly, especially in the last four years, with regard to very serious reasons which will soon be considered in detail, due to the presence of a member of the parish clergy of N., and to a certain manner of being of a person who was associated with the Parish Priest, whom he had under his authority when he was a Vicar, (but this person, at that time, was not considered worthy of reproach by the Parish Priest), and which he has maintained in his residence in the parish of N. with deplorably persistent behavior, and that, given the condition of this person, who was a man, but who no longer lived with her, it produced publicly impressions of the most offensive nature, (this offense is established to have been created by the Curia*, but it is not established to have been created by the faithful), which have been reflected upon the person of the pastor of the parish, to the detriment of his reputation and of his ministry."

[*Latin ed. p. 142*]

142. REINTEGRATIONS. IV. "Considering that the repeated admonitions given to John, especially after the year 1859, to separate himself from the person in question, remained without effect (this is not entirely true; for they had an effect according to the tenor of the first mandate), as did also the formal injunctions that followed, under the threat of censures, so that it was finally declared by the Order and the Office that he was suspended on February 6th. (Here there is a certain confusion: for two years having

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elapsed since the first mandate, the Parochus was declared to have incurred censures through the transgression of a new mandate. In the following 'Considering,' a new thing is not said, but rather what the Parochus did after the first mandate of separation, which shows that that mandate did not remain without effect.) V. "Considering that, in light of the foregoing, and the penalties of censure with which John was burdened, the difficulties of the situation were no longer fully resolved, but were increased into a scandal for the parish and to the detriment of very important matters (these words are too general), although finally, at the last, the woman related to John left the Presbytery, but to live in a house located on the opposite side of the street from the house inhabited by the Parochus, until she recently moved her residence to another city, N. (but this was not a fault; rather, it was the fullest execution of the mandate, which clearly renders the deposition of the Parochus null and void.) VI. "Considering that one of the consequences, for which this situation was singularly involved, is that it was necessary to appeal to Rome, first on February 7th, and again on March 10th of the following year, in order to obtain special faculties, (a great inconvenience! This is a matter worthy of being mentioned among the reasons for removing the Parochus!) to absolve the aforementioned ecclesiastical person from the suspension with which he was struck on February 6, 1862, since this power belongs to the Ordinary, (it was most important to note this! let us be careful that the Holy See does not put the sickle into another's field!), but from the penalty of irregularity, which Clerics incur when they violate a suspension, as happened to John, which is reserved to the Supreme Pontiff; however, because of John's fault (what is this later fault? such a term certainly cannot be applied to the humblest acts of submission, and the full execution of a prescription), it was possible to apply to him the grace obtained at that time, both the first and the second."

[*Latin ed. p. 143*]

REINTEGRATION. 143. Furthermore, from this arose inevitably the indefinite prolongation of the deplorable state of affairs in the parish of N. Hence, John, remaining bound by the irregularity (due to the Curia; which perhaps, contrary to its office, did not order the dispensation regarding the irregularity), was deprived of all exercise of his office and jurisdiction.

VII. "Considering that, in view of the extent of the harm that had been caused, there remained no hope or prospect of improvement, and that, as far as We are concerned (perhaps it is said, as far as We are concerned; because this absolute necessity was hidden in the mind of the Curia, although it does not appear externally), it was absolutely necessary to entrust the administration of the parish of N. to a certain priest administrator, so that he might attend to the needs of the people and, as far as possible, mitigate the consequences of these disastrous circumstances: which We did on the 16th of last month, with the appointment transmitted on the following

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day, April 17th, to His Excellency, the Minister of Worship (this created no inconvenience: for it concerned an act of submission in an ecclesiastical matter by a lay person), and made known to the clergy of the parish, the members of the Church Council, to the aforementioned John, and publicly read from the pulpit or publicly read before the faithful assembled in the parish church. (Such a triumphant solemnity undoubtedly justified the action of the Curia, if perhaps it had been unjust; and therefore, it should be indicated here!)

VIII. "Considering that, in such circumstances, and in the dispositions that have been made, and which may still be made, in the handling of this matter, in the patience from which We have never wished to, and never will, depart (a great desire for equity and mercy!), it is impossible not to recognize that John could be rehabilitated in his parish of N., and again established in his office, under certain conditions, which would lead to some good for the parish and the Church through his presence, as well as through the exercise of the ecclesiastical functions which he would resume. (That is to say, it is impossible not to recognize that if the Curia were to reinstate the parish priest in his office, it would be accusing itself and the matter would not have been handled correctly. But justice must prevail over human considerations.)

"Having examined the titles and documents relating to this matter (which titles and documents, however, were not transmitted to the Holy See, because they were not present, as was said later, or perhaps, because they did not deserve to be shown)."

[*Latin ed. p. 144*]

144 "REINTEGRATION!" "In the Holy Name of God (as a witness of justice), and after hearing our Council, we have decreed and do decree the following: 1° The parish of N. is declared vacant by deposition, which we make and pronounce, of John, who was its titular pastor from the month of June 1855. 2° N. N., designated administrator of said parish, shall exercise his office according to our mandate, from the day of April 16th, until the appointment of a new pastor, whose nomination will be made by us and subject to the favorable approval of the Emperor. 3° This mandate, together with the documents and canonical proceedings (!!), is transmitted to His Excellency, the Minister of Cults (this minister appears to be the supreme ecclesiastical authority!), so that this mandate, after having received the favorable approval of the Emperor and being sanctioned with an imperial decree, may fully and completely take effect." The pastor, having received this judgment, appealed to the Council of State, so that it might not render any decisions based on abuses, concerning the episcopal dispositions which had been presented to its examination, and also so that the Council might refuse to adhere to the judgment of deposition. He published two pamphlets, in which he defended his appeal concerning temporal rights;

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fully aware that, concerning other matters contained in the Decrees, he ought to appeal only to the Roman Pontiff. On August 11, 1862, he offered humble prayers to the Most Holy Father, in which he excused his actions: so that, indeed, he had acted with such caution and canonically, that he had not even, up to this point, appealed to the Council of State concerning temporal rights, and he wished it to be understood (nobly indeed!) that he had not deviated to secular matters, having scorned the jurisdiction of the Church, he requested that ecclesiastical judges be delegated in this case by the Most Holy See. In the meantime, the Ordinary died, and therefore the prayers were sent to the new Bishop with whom the Holy See acted, so that the matter might be resolved peacefully; that is, so that the new Bishop would examine the proceedings, and if the judgment of deposition seemed less in conformity with ecclesiastical law, he would reinstate the pastor in the same parish, or at least in a parish of the same dignity and income, and if he considered it to have been well judged, he would transmit the proceedings to the Holy Congregation: but the new Bishop responded: "If the Holy See, in its..."

[*Latin ed. p. 145*]

REINTEGRATION. 145 "Piety dictates that I should not proceed further; therefore, John must do nothing other than to surrender himself purely and simply to my judgment, and then I will bring this matter to a conclusion, in the most just and appropriate manner that I deem fitting. If, however, the Holy See should transmit a recourse and undertake to judge the case, it is my duty to await its definitive judgment, and to conduct the matter concerning John in accordance with its decision... Regarding the revocation by me, of the Prefect's dispositions, all motives dissuade me. But when the Ordinary had not transmitted the process again to the Holy See, he inquired whether he should transmit it, and at the same time, he made clear the plan that he was considering proposing to John, so that the Holy See might conclude the matter without prejudice to justice and the decorum of the Church. The Ordinary replied that the opinion of the clergy and the people generally was opposed to John; that it was his opinion that John could not be restored to the parish without grave inconvenience, and that his presence in that parish would be deplorable and harmful; that he did not judge the nature of the accusations or the merits of the process, since the case had been transmitted to the Holy See; and that, as for his plan, he would say nothing, lest he prejudice the judgment of the Holy See, and that he would await that judgment, in order to place himself in his proper position. Since, therefore, the mandates of the Sacred Congregation had been frustrated in their effect, the Most Holy Father expressly ordered that the procedural acts be transmitted from the Curia to the Sacred Congregation. The Ordinary sent letters to the Most Holy Father, in which he requested that the parish priest desist from the appeal to the Council of

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State, since this appeal was contrary to canon law, and for which he would incur censures; and, as a subordinate, he should not make proposals to his superior, but should submit to him; and the Ordinary protested that he must remain firm in the rigor of his rights, and that he must defend the honor of the deceased Ordinary; and therefore, he would await only precise and formal mandates, to which he would obey as a son. Therefore, a response was given to the Ordinary (ceasing any amicable negotiation), that the question should be examined according to the procedures of law; and therefore, without delay, the procedural acts should be transmitted, and the Sacred Congregation would be responsible for the recourse. Acts, vol. I, section XXXIX, 10.

[*Latin ed. p. 146*]

146. REINTEGRATION IS. Concerning the matter brought before the lay authority, it was arranged in such a way that, with due regard for justice, the honor of the Curia and the good of the Church would be considered. The Archbishop, writing in response, sent two documents; in one, he refuted the things which the Parish Priest had presented to the Holy Congregation, often opposing the assertions of the Parish Priest with his own assertions; in the other, he presented official documents which had already been presented by the Parish Priest. But when these were not sufficient, the Archbishop was again requested to send all documents of any kind pertaining to the matter, especially the testimonies of witnesses, which had been collected by the delegate from the Curia for the purpose of investigation. But since more than several months had passed without result, and it could not be doubted that the wise men of the Curia desired to prolong the matter as much as possible in order to weaken the Parish Priest, who had come to Rome almost fifteen months ago, the matter was brought before the Most Holy Father, and a time was determined for the cause to be discussed in the full Congregation. Then, the Archbishop was again requested to respond, and he wrote that the matter in question had not been treated with strictness and legality; he gave several reasons for this; these should suffice to explain why the documents requested do not exist, and why they were not sent. Since this is the substance of the entire case, we abstain from further discussion; for the Parish Priest, as is asserted, had been injured in his honor by the Curia, and the Curia had issued decrees against the Parish Priest. It is no longer necessary to discuss the merits of their decrees, since the Parish Priest had fully submitted to them. Doubt. "Whether there is a place for reintegration into the parish, so that both the Parish Priest and the parish may have a place for the restoration of fruits and emoluments; or rather, should the penalty of deprivation be maintained in this case?" RESOLUTION. — The Holy Congregation of the Council, after discussion on August 27, 1864, decided: The decree of deprivation from the parish is not to be maintained; however, the suspension from office and benefice

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imposed by the Curia remains in force, and the Parish Priest shall be released from this suspension after performing spiritual exercises for ten days in a religious house (to be designated by the Ordinary), by the same (Ordinary).

[*Latin ed. p. 147*]

REINTEGRATION. 147 From the audience of the Most Holy Father on August 29, 1864. "After a report was presented by the undersigned Under-Secretary, the Most Holy Resolution" of the Sacred Congregation was pleased to approve and confirm, "and the necessary faculties were granted to the (Ordinary) to absolve and dispense the aforementioned Parish Priest from any suspension or irregularity incurred." FROM WHICH IT CAN BE CLEARLY UNDERSTOOD: I. It is much easier to sustain in judgment the imposition of the penalty of suspension, whether from office or even from a benefice, than the penalty of deprivation of the parish. II. To deprive a Parish Priest, who is considered immovable, of his parish, a canonical cause and a canonical form are necessary. III. In the present case, it is clearly evident that an error was made, at least in the canonical form, when the Parish Priest was deprived of his parish, after he had rejected any reason for removal. IV. Finally, it can be gathered that in those regions where the law of anomalies prevails, in which civil authorities, such as the Apostolic Dataria, grant stipends to clerics, these authorities cannot and should not judge the causes of clerics. V. Nor should those be excused from censure who bring ecclesiastical causes before such civil authorities, so that the competent ecclesiastical authority to which appeal should be made is avoided, or so that the decrees of that authority are frustrated (1). (1) The Parish Priest would be to be blamed if he appealed to the Council of State to suspend the execution of a civil decree, as they say, of the Decrees of the Curia: for he was in a way compelled to do so in order that his condition might not become worse; he would indeed be to be blamed if, disregarding ecclesiastical authority, he appealed to the Council of State to have it judge on the justice of the cause, whatever name such an appeal may be called, as is the case in France, which they call an "abus." But what of the law if, after the cause has been defined by the Holy See, a lay authority is invoked under the pretext of civil laws, and the execution of the Resolution is ordered? And what if this is done with the intention that the right of appeal to the Holy See should be denied? And yet, public newspapers report that this has happened, so that the Parish Priest has not yet been reinstated in his office. This would be a remarkable event, denigrating that Curia alone in the eyes of other Curiae of France, which clearly know by words and deeds how great is the authority of the Apostolic See of Blessed Peter, which is entirely transmitted to his heirs by Divine constitution and will be transmitted, and which is only evident to the extent that the sheep of Christ and the lambs are; such power shines

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forth that whatever is loosed on earth is considered to be loosed in heaven. Compare also what we have written about appealing to secular power in vol. I, page 567.

[*Latin ed. p. 148*]

148 SERVICES OF THE CHOIR. On February 1st and July 18th, 1868. Summary of prayers. In the region of N., there is an ancient collegiate church, dedicated to Saint Mary, which, since the 16th century, has remained outside the walls of the city during its reconstruction, being located two hundred paces away and in a low-lying and unhealthy place. Another church was built within the same city, under the invocation of Saint Lawrence the Martyr, which is the parish church and a dependent church of the aforementioned collegiate church. There are seven canons of this collegiate church. Since the canons performed the divine services in that ancient temple with considerable discomfort and risk to their health, and since almost no faithful attended that temple, while the parish church was frequented by many, and in which the bodies of many Saints rest, the Chapter obtained, in the year 1824, a temporary Apostolic indult to perform the choral services and anniversary Masses in the dependent church of Saint Lawrence, from November 1st to the end of February, except for Sundays, on which days the Conventual Mass should be celebrated in the ancient church, unless the Sunday was a feast day. This indulgence from the Apostolic See was repeated several times in the following years. At the end of the period of the last indulgence obtained, in the year 1864, the Chapter petitioned (as it had done before, albeit in vain) for a new and more extensive and permanent grant, requesting that the divine services might be perpetually celebrated in the church of Saint Lawrence for the greater part of the year. Such prayers, which were supported by the Capitular Vicar during the vacancy of the see, had no effect other than the extension of the previous indulgence for another decade: for this is what resulted from the Rescript: "Regarding the grant of an extension for another decade, in all other respects, let the aforementioned Indult be followed." However, on May 20th, 1867, the canons presented new prayers, which were also more detailed with regard to the circumstances: for the church of Saint Mary is not only unsuitable in winter, but also in summer...

[*Latin ed. p. 149*]

THE SERVICES OF THE CHOIR. 149. These could scarcely be attended to without very great inconvenience, so that two physicians reported that the Canons were in danger of their health if they were to spend the daytime hours in the temple during those times. Consequently, it often happened that the number of Canons was very small, either because of illness, or because of distance, or even because the Prior of the Chapter was obliged to

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perform his duties in the parish church of Saint Lawrence, so that the divine services could not be performed with the proper decorum. Furthermore, the Canons presented other serious reasons, namely that no ministry could be performed in that ancient temple for those who were not present, nor was the Holy Eucharist reserved, nor were the confessionals even opened; whereas, on the contrary, everything was available in the church of Saint Lawrence. The Archbishop was consulted about the custom of this diocese, and he reported: "For almost three years now, the Canons themselves, having been taught by experience and compelled by urgent necessity, have presented a petition..." I examined the reasons which they put forward, and I recognized that not even the smallest detail was absent from the truth... Therefore, in order that due honor may be given to the Collegiate Church, and with the benefit and necessity of the people and the Chapter, I consider that the requests should be favorably received, and I earnestly decree, that nevertheless, the Canons may perform the divine services and the duties of the legates in the church of Saint Lawrence from July 1st to the entire month of August, and from November 1st to the entire month of April of the following year; and that for the remaining months they must perform them in the Collegiate Church, in which, moreover, on every Sabbath day which is not a feast day, the Conventual Mass must be celebrated, and also that, according to custom, the solemnity of the Annunciation of the Blessed Virgin and the solemnity of her Assumption must be observed, with the addition of the rule that, on this most important feast, for the entire eight days following, after the evening services, the sacred function should be solemnly performed in honor of the Blessed Virgin in the church of Saint Lawrence, with the Chapter present. After these matters were explained, and after some observations which I am obliged to make, which I will mention below, the requests were presented to the Holy Congregation on February 1, 1868, from which a Decree was issued: "Delayed; and write to the Bishop according to the meaning." The intention of the Holy Congregation was that the Archbishop should report more precisely about the burdens of Masses, legates, anniversaries, and sacred functions, which were to be...

[*Latin ed. p. 150*]

150 REGARDING THE VICES OF THE CHOIR. The Church of Saint Mary was to be transferred to Saint Lawrence; it was necessary to ascertain what revenue each prebendary possessed, whether the choral service was performed daily, and whether the inhabitants resided near the old church. Having satisfied himself on all these points, the Archbishop sent a statement of expenses, from which it appeared that the total annual expenses to be borne by the church of Saint Mary amounted to thirty annates, and three hundred and three Masses. Of these, ten annates were to be paid on certain days of the year within eight months, and during those eight months in which the transfer was to take effect; the remainder could be paid

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at leisure, or within the remaining four months. Furthermore, one hundred and eight Masses were to be celebrated at leisure within the year; the remaining Masses were to be distributed throughout the week or the month, so that the majority would fall within the aforementioned eight months. Besides these, no other expenses were found to be associated with the functions of Saint Mary's. Those pertaining to the Feast of the Annunciation and the Assumption, under an indulgence, did not apply. Furthermore, the Archbishop sent a statement of the individual incomes of the prebendaries, as is customary during the sacred visitation, from which it was determined that the income of the senior prebendary, after deducting all expenses, amounted to 238 scudi; the income of the other prebendaries amounted to 100 scudi. The choral service was limited to feast days only; it was noted that the inhabitants living near Saint Mary's church were lacking, and that they could not even be accommodated due to the inclement weather and the unfavorable location.

OBSERVATIONS FROM THE OFFICE. It is, of course, noted among other things, that the Holy Congregation has often granted indulgences for the transfer of expenses when necessity or evident benefit to the church was involved, as in the case of Bologna, June 28, 1724, in the Commentary on the Transfer of Masses, November 24, 1764; especially if no detriment to the divine service or inconvenience to the people was to be feared, as in the case of Leodien, May 24, 1823, regarding the Reduction and Transfer, and in Lünen, Sarzanen, September 17, 1831, §. However, the Holy Congregation has always proceeded with caution in granting indulgences for transfers, as in the case of Monte Alto, July 21, 1832, regarding the Absolution, Reduction, and Transfer; especially when in the church from which the Masses are to be transferred, there are the bodies of testators, for whom...

[*Latin ed. p. 151*]

SERVICES OF THE CHOIR. 151. It must be considered that they have been buried in the tomb. For this reason, the Holy Congregation denied the translation of the Masses in the Lucanian Reduction and Translation of December 4, 1833. But if the Eminent Fathers had approved the wishes of the Canons and the Archbishop, it would already have been consulted, according to the Council of Trent, Session II, chapter 7, concerning ecclesiastical matters, so that the old church would not be completely abandoned. Therefore, after prayers, which were renewed on July 18, 1868, the Holy Congregation responded: "For the sake of the grace, according to the wish of the Eminent Archbishop, the matter has been settled with the Most Holy."

FROM WHICH WE GATHER:

I. For ecclesiastical services, which must be performed in a designated

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temple and which have been performed for a long time, it is required that grave reasons and Apostolic permission be obtained before they are transferred to another temple.

II. Such reasons are reduced to the necessity and evident benefit of the Church, which are canonical and universal reasons for introducing any change in properly established ecclesiastical matters.

III. In any change that is made, it must be ensured that only as much is changed as necessity or the evident benefit of the Church prudently requires, with the least possible detriment to the matter being changed.

IV. For reason demands that those things which are well established should not be deprived of their proper order, Council of Trent, Session 25, chapter 5, concerning reforms, nor should the wills of testators and founders be defrauded.

[*Latin ed. p. 152*]

FROM THE SACRED CONGREGATION OF RITES. SALTEN. September 26, 1868. DECREE.

"The Most Reverend Bonaventura Rizo, Bishop of Salten, presented to the Sacred Congregation of Rites that the altars of churches within his diocese, in which the Most Holy Sacrament of the Eucharist is reserved on week days in the Blessed Sacrament, are indeed often adorned in a beautiful manner, but without statues, images, or other representations. However, the Regular Missionaries of the Order of the Seraphic Fathers of San Francisco in this city have, for two or three years, begun to place statues and similar objects in this manner, namely: they represent scenes of the Lord's Passion, and place images and statues anew, without the approval of the Bishop. Indeed, this very year, they placed an image of Our Lord Jesus Christ praying in the garden, and the very angel comforting Him, in such a way that, with knees bent, hands extended to heaven, tunic open and chest uncovered and bare, it appears, without any regard for the account of the Evangelists, namely, St. Matthew, chapter 26, verse 32 to 47; St. Luke, chapter 22, verse 41 to 47; St. Mark, chapter 14, verse 35 to 43; St. John, chapter 18, verse 4 and following, from which it happens that some might place the literal account of the Holy Gospel in second place to another book, which is not surprising in these regions, in which the study of the Scriptures is not much valued.

Furthermore, Jude also appears approaching the Lord with a cohort during the very act of prayer and consolation, the statues of the sleeping Apostles being placed further away, as if the Lord had suddenly been found praying, which undoubtedly contradicts the evangelical text, since, according to it, Our Lord Jesus, after praying, announced the arrival of the betrayers to the disciples, and then proceeded to meet Jude and his cohort. Moreover, all of this does not preserve the faith in the Gospel and the literal

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account of the Holy Evangelists, but rather contradicts it, since many, as it is represented, and not as it is narrated in the Gospel, have believed that it happened in this way."

[*Latin ed. p. 153*]

SALTEN. i 53 "Furthermore, it is the case that the Most Holy Sacrament is placed under such statues and painted depictions, within a certain structure resembling a small cave, and is located on the floor of the sanctuary, and cannot be placed upon the altar, nor can six candlesticks be placed upon it, according to the prescriptions of *Caeremoniale Episcoporum* I, 2, chapter 23, number 2, and the *Rubricae Missalis*, specifically for the Feria V (Fifth Day) of the Holy Week. Moreover, a certain lay group continuously ascends and walks about this structure resembling a cave, and before the people who are gathered around, in order to tend to the lamps which are before the statues."

"Furthermore, the people pay more attention to the statues and paintings than to the Most Holy Sacrament, and many instances of irreverence occur in these representations, which are even maintained after the holy day of Pascha."

"Considering the matters presented and the scandals which cannot be avoided on account of such representations, the aforementioned Sacred Congregation humbly requested a solution to the following questions.

I. "Whether such representations in the chapel, in which the second consecrated Host is to be placed on the Feria V of the greater week, can be tolerated.

II. "And, in the negative case regarding the first question: can the Regular clergy be compelled by the Bishop not to make such representations?"

"When one of the Masters of the Apostolic Ceremonies, having presented these questions, on which he had written his opinion in writing, at the meeting of the Ordinary Congregation of Sacred Rites, held today in the Vatican, the Most Eminent and Reverend Cardinal Aloysius Bilio, appointed as the Proponent of this cause, and the Most Eminent and Reverend Fathers, entrusted with safeguarding the sacred rites, after mature deliberation and consideration, decided to respond as follows:

"To the first question: The practice described is contrary to the *Caeremoniale Episcoporum* and the *Rubricae Missalis* of the Roman Missal, and in the case in question, the Bishop should ensure that it be eliminated, even by the authority of the Sacred Congregation of Rites.

"To the second question: As provided in the first."

"And thus they responded on September 26, 1868.

Admonitions from the Consultor: "Regarding the first question, the Consultor stated that the Feria V in the celebration of the Lord's Supper

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is..."

[*Latin ed. p. 154*]

154. It was customary for the sacred Host to be reserved in a small vessel, so that the priest, on the following Saturday, might celebrate Mass of the Foretaste and administer Communion: for from at least the fourth century, both the Western and Eastern Churches abstained from celebrating the Sacrament on that day, which was therefore called by ecclesiastical writers the *aliturgy* day. The reason for reserving the sacred Host was indicated in ancient Sacramentaries; thus, the Sacramentary of Gelasius states: "They do not celebrate Mass, but they communicate and reserve from the very Sacrifice for the following day, from which they will communicate." Similarly, the Roman Ordo, the oldest of all, states: "The priest comes before the altar, and the entire people communicate in order, and they reserve the Holy [Host] until the following day." However, it was noted that with the passage of time, this day began to be celebrated more extensively, especially in the tenth century, on account of the heresy of Berengar, who denied the real presence of Christ the Lord in the Eucharist: and the Roman Ordo, which is said to have been drawn up in the tenth century, states: "The priest communicates those who wish to communicate in his seat. However, the oblation, which is the whole Body of the Lord, is reserved on Friday... But before the priest returns to the altar to complete the Mass, a younger priest or cardinal carries the Body of the Lord, placed in a pyx, to a prepared place, preceded by a cross, lights, and a canopy, etc. In the fourteenth century, Father Peter Amel, Bishop of Senigallia and Prefect of the Papal Sacristy, who collected the ceremonies by which the Roman pontiffs were accustomed to celebrate the sacred functions, both in Avignon and in Rome, wrote about Holy Thursday: "After the Lord Pope enters to celebrate Mass, he prepares two Hosts, one for himself and another for Friday..." Having received the Body and Blood of our Lord Jesus Christ, with the chalice and without a paten... before washing his hands in large basins, the Pope himself, or the cardinal who serves him in Mass, carries the aforementioned chalice, with the Body of Christ thus covered, to a small cupboard in which it is kept until the following day, preceded by lights, a cross, and incense, in a solemn procession with devotion, after which, having placed it there, he kneels and incenses the Body of Christ, after which he returns to the altar." This was confirmed by similar documents, the Consultor stated. And if in some Western churches, which used their own rites,

[*Latin ed. p. 155*]

SALTEN. 155 In cities such as Moguntina, Suessionensi, Baiocensi, and Sarisberiensi, as well as others, the practice of reserving the Body of Christ to signify His burial was observed, but this was done according to a distinct rite entirely different from the one we are discussing; the Consultor testi-

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fied that in those churches, on Thursdays, three consecrated Hosts were prepared, one of which was consumed in the Mass, another was consumed the following day, and the third, after Vespers on Fridays, was enclosed with the Cross in a monument until the Holy Day of Easter. Having noted these things, the Consultor stated that, since the 16th century, the rites of the Papal Chapel had been regulated according to the *Caeremoniale* of the Holy Roman Church, compiled by Augustine Patrizi of Siena, Bishop of Pienza, and Master of Ceremonies of the Apostolic See; while the other dioceses were to follow the *Caeremoniale Episcoporum* and the rubrics of the Roman Missal. The aforementioned *Caeremoniale* concerning the Feast of the Lord's Supper, in chapters 2, 3, and 13, prescribes the following: "Therefore, a small chapel within the church should be prepared and adorned, as magnificently as possible, decorated with lights, in which the Most Holy Sacrament is to be reserved after the Mass of that day, and placed on the altar with six candelabra and wax candles. Also, a beautiful white baldachin should be prepared, along with two censers with incense, and a small pall for the Sacrament, and a larger and wider pall to be placed around the shoulders of the Bishop while he carries the Sacrament; and all of these should be of silk or gold, or otherwise beautifully adorned; also, a larger and more beautiful chalice in which the most sacred Host is placed; and sufficient white wax candles for the Canons and Clergy; also, two Hosts are to be consecrated, etc. The Bishop will put on his white vestments... he enters under the baldachin, carrying the Most Holy Sacrament with reverence, while the Canons, prepared with their stoles, precede in the usual order; when they have arrived at the chapel where the Sacrament is to be placed, they remain outside the baldachin, and the singers, in a pious and devout manner, sing 'O salutaris Hostia' or 'Tantum ergo Sacramentum,' until the Sacrament has been placed and incensed by the Bishop." The same is prescribed in the Roman Missal: "Today, the priest consecrates two Hosts, one of which he takes, and the other he reserves for the following day... Today, a suitable place is prepared in a chapel of the church or on a decently adorned altar, as much as possible decorated with cloths and lights..."

[*Latin ed. p. 156*]

156. Wherefore, he concluded that the Church had not altered the purpose and form of the repository of which we are speaking in the present liturgical discipline, but rather, in order to refute the perverse opinions of the innovators of the 16th century, and to encourage the faithful to remember more and more the outstanding benefit of our Redeemer, who instituted this Sacrament on that very day, he prescribed that the place of the repository should be established within the walls of the temple, magnificently adorned, and exposed for public adoration. Having stated these premises, he noted that it was not for any other reason that the Most Holy

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Heart of Our Lord Jesus Christ was kept, namely, so that the priest might communicate in it on the following liturgical day; secondly, that a most solemn ceremony would then follow, in order to further celebrate the institution of this Holy Sacrament on that day. Since this has been the opinion of the Church from ancient times, he observed that all those who consider and perform such a reservation of the Sacrament as a representation of the Lord's burial are greatly mistaken; and that they disturb the order of the Holy Functions, so that the faithful themselves cannot rightly persuade themselves how the Church commemorates the burial before the death of Our Savior. Wherefore, the Holy Roman Congregation in Lauden, on January 21, 1662, forbade the covering of the chapel with mourning cloths on Ash Wednesday; and in Narni, in response to the question: whether a seal could be affixed to the door where the Most Holy Sacrament is kept; and whether it is permissible to sing the antiphon "Sepulto Domino" when it is hidden, it responded on December 7, 1844, negatively to both. Furthermore, it decreed in Albenga, on August 8, 1835, that it is not permissible to place a white veil on the altar which, descending from a large cross, would cover the Eucharist. Nor have the interpreters of the Rubrics, Catalano, Gavanto, Cavalieri, Risso, and Bauldry, held a different opinion, who exclude any scenic representation, and the signs of grief and mourning, from the repository. Moreover, it is the practice of the Pontifical Chapel and of the patriarchal churches of the City to be adorned only with tapestries, flowers, candles made of white wax, and other precious ornaments. After these things, the Consultor noted, those objections should not be considered which are taken from the common appellation.

[*Latin ed. p. 157*]

SALTEN, 157 Sepulcri, and concerning the custom of placing a cross and other symbols of the Lord's Passion in the repository, it was observed that this practice is generally maintained. Firstly, it does not contradict liturgical laws. Secondly, it does not entirely subvert the observance of the Church, if the symbols of the Passion are understood to signify that on the very day that the Savior offered Himself as food and drink, the tormentors prepared torments for Him and the cross. However, the Consultor was of the opinion that it is not permissible for the Order of the Minorites to prepare the repository in that form, as described by the Bishop, especially since this not only contradicts established practices, but also the Ceremonial of the Minorites themselves, which prescribes almost the same things as the Ceremonial of Bishops and the Rubric of the Missal. Regarding the second doubt, the Consultor noted that it is a matter of pastoral concern to diligently ensure that the ritual laws are observed. The Council of Trent, in Session 21, Chapter 8, concerning the Reform, decreed: "Whatever pertains to the worship of God must be carefully overseen by the Ordinary, and provided for where necessary." Similarly, the Most Holy Congregation in

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Mexicana, on April 4, 1620, decreed: "The Archbishop must, according to his prudence, provide that abuses introduced concerning ecclesiastical rites and ceremonies are corrected, according to the prescriptions of the same Ceremonial." And in Ñuscan, on June 9, 1668, it was decreed: "The Bishop must oversee and remove any abuses that may have arisen in the churches of the Regular clergy." However, since the Doctors do not fully agree among themselves regarding the nature of the abuses that a Bishop may remove in the churches of the Regular clergy, and since the Holy Congregation usually entrusts the execution of each of these decrees to the Bishops, the Consultor refrained from addressing this question. FROM WHICH IT CAN BE GATHERED: I. That the deposition of the most august Host on Holy Thursday in the Holy Supper, from its original institution, has not presented any particular significance; and that the same Host is deposited to be reserved for the following liturgical day. II. That over time, the deposition and reservation of the same most sacred Host has been celebrated with greater external solemnity, in order to recall the institution of this great Sacrament again and again.

[*Latin ed. p. 158*]

158. SALTEN. III. Although the faithful people, ignorant of the origin and nature of this rite, are, during those days most devoted to the memory of the Passion, spontaneously drawn to consider the Lord's burial; it is nevertheless the duty of the clergy to remove all those symbols in this observance which would signify that very burial in a manner contrary to the institution of the Church (1).

(i) The sacred functions of those days, by their very nature, evoke the Lord's Passion in the minds of the faithful; therefore, it is not difficult for the faithful, through this observance, which is performed in an unusual manner and is suitable for directly signifying the Lord's burial, to consider and invoke that very burial; this is also observed in Rome. In this matter, there is no danger of error, at least in Catholic regions: only a certain confusion of ideas arises in a less educated people, who cannot understand how the Church considers the burial before the death of the Lord, but nothing more. However, since it is not the intention of the Church, through this observance, to directly consider the Lord's burial, as is evident from the aforementioned liturgical laws, it is not permissible for the clergy to celebrate this observance in such a way as to follow the piety of the faithful rather than the liturgical order of the Church. I have said that there is no danger of error, at least in Catholic regions: for the faithful, by a kind of innate custom, know that the rites and solemnities of the mysteries, in their entirety, express Catholic dogmas and the faith of the Church, or the truths which it professes, but that the individual rites and actions taken separately are not always to be considered as accurate expressions of a particular dogma or truth of the Catholic faith, especially when the suc-

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cession of time is involved. Therefore, in the matter proposed in general, nothing seems to stand in the way except the liturgical law of the Church, which, however, is more than sufficient to eliminate such representations of the Lord's burial that are publicly performed in the church. Furthermore, in the present case, according to the exposition of the Bishop, I have no doubt that the Bishop himself could, by his own right, have eliminated these representations made in the church of the Regular canons, since the Tridentine decree of Session 25, De Regno, in the Decree on Invocation, etc., considered such cases.

[*Latin ed. p. 159*]

159. Regarding the Beatification and Canonization. Concerning the Venerable Servant of God, Clement Maria Hofbauer, Priest, member of the Congregation of the Most Holy Redeemer, and a distinguished propagator of the same Congregation beyond the mountains. We are pursuing the cause of the Venerable Servant of God, Clement Hofbauer. We have discussed the introduction of his cause in Volume H, page 465, where we outlined his life and presented certain facts, among others, that were debated. Furthermore, in Volume III, page 266, we discussed the second stage of this cause, which concerns the non-cult. The cause returns for a third time, and it concerns the process, established by Apostolic authority, based on the reputation of sanctity, virtues, and miracles in general. At the request of the Postulator of the Cause, the Reverend Father Brixi Queloz, so that the Most Holy Lord would deign to grant letters of referral to examine the aforementioned Apostolic process in the City of Vienna, such letters were given to the Most Reverend Archbishop of Vienna, with the faculty of choosing, in place of the General Vicar who was unable to participate in this matter, the Reverend Monsignor Dominic Mayer, Bishop of Cisamus, and in place of the four Canons of the Metropolitan Church, other worthy priests, conspicuous for their doctrine and gravity of morals, whether secular or regular, provided that, if a regular priest were chosen, he would not be from the Congregation to which the Venerable Servant of God belonged. Furthermore, the following conditions were added: that the Most Reverend Archbishop, together with the Bishop of Cisamus, or one of them with two of the chosen men, or, if both were prevented, the same four men would jointly attend each session, and that the aforementioned investigation would be completed within a prescribed term of one year from the date of presentation of the letters. Furthermore, the Reverend Father Dominic, Promoter of the Holy Faith, Peter Minetti, was summoned before the Most Reverend Cardinal De Reisach, as the Postulator, to speak.

[*Latin ed. p. 160*]

160 VIENNA. Against said Commission, and successively against the positions and articles given in the proceedings, in order to examine them

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and those articles, to summon witnesses regarding them, to execute the Remissorial Letters, to agree with the aforementioned judges regarding the time and places, and concerning their places and the Portitor, to provide the interrogatories included in said Letters, to appoint one or several Promoters of the Faith by deed, "Notaries and Chancellors, who can conveniently be summoned in the City of Vienna, and who will be interested in the proceedings and the examination of witnesses; otherwise, to examine said witnesses without said interrogatories, etc." After all has been duly carried out, the Letters were given by the Most Reverend Cardinal Patriz, C.S.S.R., Prefect, with a form most carefully prescribed, to be observed under canonical penalties in the process being constructed in Vienna, and two most excellent ecclesiastical men were delegated by the Most Holy Promoter of the Faith to perform the office of Promoters in Vienna. After the process had been constructed, both the delegated judges and the Promoters wrote to the Most Holy Congregation [of Rites], and the process was transmitted to Rome, and the cause began to be conducted according to custom.

(1) This is the most excellent letter which the delegated judges sent to the Most Holy Congregation: "Most Reverend and Most Illustrious Lords, with the favor of Divine Grace, we have completed the process in the cause of the Venerable Servant of God, Clement Maria Hofbauer, ... concerning the fame of her holy life, virtues, and miracles in general, constructed within the designated time limit, by Apostolic Authority in Vienna. Filled with the utmost obedience towards the Most Holy Apostolic See and the Congregation of Sacred Rites, we strive to execute the Remissorial Letters and all other matters pertaining to the cause, with all due religious care; however, if we have happened to have erred in anything, we humbly beg forgiveness, lest a lack of expertise prejudice the cause. All the sessions were presided over by the judges, sworn in according to the prescribed manner, and indeed from the second to the ninth, which is the penultimate session, the Bishop of Cisamensis, together with two priests, were chosen by the Most Eminent and Most Reverend Archbishop of Vienna. The sessions were always held in the designated sacred place, and always attended by one of the Promoters of the Faith, duly sworn in. The witnesses were examined behind closed doors, first regarding the interrogatories and then regarding the articles, and no one was present at their depositions, except for the aforementioned judges, one of the Promoters, and the specially appointed and sworn Notary, who recorded the witnesses' depositions in writing in the German language in which they were made. Both the witnesses' depositions and the interrogatories were always kept closed and sealed with the seals of the judges, so that they would only be opened during the examination, and at the end of each examination, they would be closed again and secured with seals. The original acts of the process were duly made public, by two Amanuenses, under oath to perform their duties faith-

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fully.

[*Latin ed. p. 161*]

161 VIENNA. The Advocate presented a carefully prepared statement, first demonstrating that the prescribed form had been strictly followed in the proceedings; secondly, based on the testimonies, he showed the outstanding and genuine reputation of Holiness of the Venerable Servant of God. Discussion by the synod. OBSERVATIONS OF THE PROMOTER OF THE FAITH. — The Promoter of the Faith, who, by his office, is obligated to examine all matters in these cases and to make observations, found nothing to object to; the documents are complete, and a copy thereof, prepared with such diligence by the Official Notary and the Assistant Notary, and compared with the original document, has been testified to and confirmed by the Notaries and Judges, so that they can attest and confirm that each word agrees with the original. After the twentieth session, which is the last of the entire process, a copy, signed by the delegated Judges with their own hands, sealed, and brought into public and authentic form according to the prescribed manner in the Letters of Transmission, was finally closed, sealed, and delivered to a specially designated and sworn messenger, to be delivered by him to the Congregation of Sacred Rites; the original documents of the process are preserved in the Archdiocesan Archive of Vienna, under seal, for the perpetual memory of the matter. With regard to the witnesses, eight were examined in the case, of whom six were summoned by the Postulator of the Cause, and two were summoned by order of the court; they represent the lay and clerical state, both secular and religious, and, with the exception of the sixth and seventh witnesses, knew the Venerable Servant of God personally. All presented themselves prepared and ready to testify, none bear the stain of infamy, they live under the obedience of the Holy Roman Church, and are so conspicuous for their integrity that, according to the Acts, volume I, page XXXIX, one may not doubt the sincerity of their will and their truthfulness. They testified openly and simply, without hesitation or doubt, as those who are confident in what they are saying, so that their testimonies deserve all credibility. The Judges also, having acquired knowledge, can attest and confirm the reputation of the Venerable Servant of God, about which we are speaking, which prevails among all those who knew him personally, and among many others, who are sincerely devoted to the Catholic cause, delighted by the holiness of his life, his heroic virtues, and the miraculous intercessions of the Venerable Servant of God, and who, with fervent prayers, implore that the Holy Catholic and Apostolic Church, afflicted by grievous miseries in these our days, may obtain a new increase of glory, a new example of Roman Catholic faith, and a new patron of apostolic fortitude. » We humbly kiss the purple robes of the Most Eminent and Most Reverend Lords. In Vienna, on the nineteenth day of February, in the year one thousand eight hundred and

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sixty-eight. To the Eminencies: Your most humble, devoted, and obedient servants: Dominic Mayer, Bishop of Cisamus, Delegate Judge; Johannes Schweiz, Delegate Judge; Rudolph Koller, Delegate Judge.

[*Latin ed. p. 162*]

162. In Vienna. Through an inquiry conducted by judges delegated by the ecclesiastical authority in Vienna; indeed, he was compelled to attribute these praises to them, which is quite unusual: "These are the two main points of this inquiry." The first concerns the reason for the inquiry, its legitimate forms, and, one might almost say, its appearance; the second concerns the intrinsic validity or the evidence by which the reputation is established, which we are now investigating most diligently. Regarding the first point, it is necessary to make some observations, since the Archbishop of Vienna and other delegated judges have devoted such diligence and care to the matter at hand, that they have not deviated from the law in any way, and have omitted nothing that is required by it. Therefore, they deserve the highest praise, and it is to be earnestly hoped that all inquiries will be conducted in this manner, and that this may serve as an example to others. The Promoter of the Sacred Congregation made only a few observations, of little importance, considering the testimonies of witnesses; among other things, he noted that, although the reputation for sanctity of the Venerable Servant of God is said to be widespread and extends to almost all parts of the world, the cause of this widespread diffusion of his reputation is the zeal of his disciples; regarding which, witness 1 testified as follows: "His disciples spread the Congregation of the Most Holy Redeemer to distant regions... and everywhere they spread the praise of the Venerable Servant of God." Furthermore, the relics of the Venerable Servant of God were deposited in the church of the Congregation of the Most Holy Redeemer in Vienna in the year 1862, and this translation was a very solemn event. In addition to these things, the Promoter added, "consider the recent appearance, the work, the materials, and the continuous ornamentation of the tomb of the Venerable Servant of God, all of which are done in the temple where the students of the Venerable Servant of God gather, and where they perform sacred duties." In this regard, the general decrees of Urban VIII must be kept in mind, in which it is stated: "It must also be carefully considered... whether, in the place where he died or where he rests, the person for whom canonization is requested, if he is still alive and living, has a common reputation and fame of sanctity, and from where this reputation originated: whether it arose spontaneously... or whether, on the contrary, it was procured by human effort, and whether what is presented was procured or not."

WHAT THE ADVOCATE FOR THE CAUSE SAID. — The Advocate for the Cause responded to this observation in an elegant manner: "The Censor acknowledges that the splendor of this reputation is so clear that it is

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universal and extends to almost all parts of the world. Nevertheless, he admits that he does not wish to diminish the importance and magnitude of this noble fact."

[*Latin ed. p. 163*]

WINDOBONA. It is to be considered a matter of great importance that this has been received with such attention and with the efforts and sermons of the disciples of the Servant of God, who have spread his name, along with that of the Congregation of the Most Holy Redeemer, in distant regions. I do not know whether the two Emperors, Ferdinand and Francis Joseph, nor Carolina Augusta and other numerous princes, and the Cardinals of the Holy Roman Church, have ever given this Institute its name, either through granted letters or through testimony given regarding this fame, when the matter of introducing it was being considered; but I shall omit this. I shall say only this: it is not fitting to transfer this fame to a universal level, since Pope Urban VIII, most wisely, ordered an inquiry to be made regarding its local celebrity. For it is possible, and it will not be surprising, that the disciples of some poor priest (whom I truly do not believe to have been a saint) could, through their artifice, have constructed and maintained a false fame and reputation for fifty years in some place. But when the fame has been able to spread throughout all regions of the world, and to find credulous listeners everywhere, the question of the use of artifice becomes childish. If one may compare the lesser to the greater, this recourse to human art, in the specific case in question, smells of the imprudence of the unbelievers, who say that the spread of the name and doctrine of Christ is easily explained by the art, study, and industry of the disciples. They are blind, and do not see that the greatest importance and miracle lies in the fact that the sound of their voices has gone forth into all the earth, and their words to the ends of the world. Thus spoke the Orator. But furthermore, the Orator did not deny that the Congregation of the Most Holy Redeemer had a part, other than that, in the propagation of the fame of the Venerable Servant of God; for it is fitting for good sons to adorn their best parent, even after death, with praises and honors. However, he denied that the fame of the Venerable Servant of God had been preserved and widely spread only through the disciples of the Congregation. And the Orator proved this from the very witnesses, who were not devoted to the Liguorian Congregation, and who, in many places, lacked the presence of a colleague of the Servant of God, who testified to the fame of the Venerable Servant of God, both from their own persuasion and knowledge; concerning which matter, the Witness II thus testified: "From the depositions I have made thus far, it seems to me that I have fully demonstrated that the fame of the Venerable Servant of God, of his heroic virtues and of his supernatural graces, has not originated from an impure source through artifice, but has a natural origin, stemming from the holy life and works of the Venerable

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Servant of God."

[*Latin ed. p. 164*]

164. VIENNA. And the Fourth Witness testified thus*. It is certain that the Venerable Servant of God is still held in high esteem today, and indeed, because of the conviction of his sanctity, which is held not only by those of the lowest condition, but also by those of higher rank, educated and learned. Doubt. "Can it be affirmed that the Apostolic Process constructed in Vienna, based on the reputation of a holy life, virtues, and miracles in general, concerning the aforementioned Venerable Servant of God, is valid and relevant to the case and to the effect of which it treats?" RESOLUTION. — The Holy Congregation of Rites, after discussing the matter on September 26, 1868, judged that it should respond: Affirmative. FROM WHICH IT MAY BE GATHERED: I. In the causes of Servants of God, very little is seen to be accomplished through the ordinary processes and other matters which must follow according to the prescribed regulations of the Roman Curia for the introduction of the cause. II. The cause truly begins when the Apostolic Authority assumes it for consideration, and with its own authority, it constructs the process anew and begins to examine the matter through its delegates, observing all solemnities. III. Although the Holy See usually judges other causes summarily and economically, examining only the truth of the matter from the documents presented; nevertheless, when it comes to the causes of Servants of God, it demands the most rigorous process in any judgment rendered, fortified with all prescribed solemnities.

[*Latin ed. p. 165*]

165 FROM S., (CONCERNING THE RIGHTS OF BISHOPS AND REGULAR CANONS. REGARDING THE MATTER OF PRICE. March 6, 1868. Summary of the Case. In the undertaking of a railway construction project in the region of N., it happened that the railway was to intersect several ecclesiastical properties, one of which was owned by Canon A, a Penitentiary Canon, and another by Canon B, a Theological Canon. The property of the Penitentiary Canon was, in part, level, and in part, mountainous, and the mountainous portion was composed of stones, sand, and other materials. Since the railway constructors required these mineral materials, they excavated a large portion of the mountainous area, removing these materials. As a result of this work, the property was not made worse; indeed, it was rendered more fertile. When the aforementioned constructors had compensated for all things, that is, the section of land taken for the railway passage, the damages to the properties, and also the mineral material removed, a question arose concerning the price of this mineral material, whether it belonged to the Benefice or rather to the Beneficiary; for as to the rest, there was no question. Synopsis of the Arguments. ARGUMENTS PRESENTED IN FAVOR OF THE PENITENTIARY CANON. Canon A, the

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Penitentiary Canon, argued that the price in question did not belong to the possessor of the Benefice, but rather to the Beneficiary. He presented to the Congregation the opinion of a certain jurist, who argued as follows: The entire question depends on whether such mineral material removed and sold should be considered among the fruits of the Benefice or not. If it is to be considered among the fruits, then the price would belong to the Penitentiary Canon. To demonstrate this, he presented the following reasoning: The Beneficiary is the usufructuary of his Prebend. Whatever can be obtained from the land belongs to the usufructuary without causing detriment to the land; therefore, etc.

[*Latin ed. p. 166*]

166 CONCERNING THE EXTENT OF THE RIGHT. Maintaining that the major premise of this syllogism does not require further demonstration, the jurist redirected the entire argument to the minor premise, which he explained as follows. "The nature of usufruct is already determined by law, and in I. 9 ff. concerning usufruct, it is written: 'Also, if the usufruct of a property is granted, whatever is produced on the property, whatever can be obtained from it, is the usufructuary's fruit, provided that it is used with the judgment of a good man, § 1. And if there are bees on that property, the usufruct of those bees also belongs to him. And if it has quarries and the owner wishes to extract stone, or has clay pits, or sand pits, Sabinus says that all of these belong to the usufructuary, as if to a good head of a household.' I believe this opinion to be true." He argued that it could not be objected that such a law could not extend to properties that do not have such quarries or clay pits, but that in those cases, new rights are established: for the usufructuary can make whatever can be obtained from the property and its resources his own, provided it does not harm agriculture, and this same law should be considered equally, as it continues: 'But also, if these metals are discovered after the usufruct has been granted, and the usufruct of the entire field is granted, not of parts, the law applies.' No less clear is the law in 5 ff. ibid. lit. 'It is asked whether the usufructuary himself can establish quarries, or sand pits, or clay pits? And I believe that he himself can establish them, if he does not occupy a necessary part of the land for this purpose. Therefore, he can also search for veins of quarries and such metals. Therefore, he can exploit veins of gold and silver and sulfur and air and iron, or whatever the head of the household establishes, or he himself can establish them, if it does not harm agriculture.' These laws, he explained, are clearly illustrated by Voet in pandects, book 7, title 1, number 24. 'As for metals, and clay, and sand, and stones, the law is such that they also belong to the usufructuary of the property; not all, nor in the same way: for either they were already cut or extracted at the time when the right of usufruct was first established, or not. If they were already cut or extracted from the property at that time, then no right of usufruct of the property can be seen

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in them, even if they have not yet been removed from the property or the pits; with the very act by which they are separated from the soil, they cease to be part of the soil, and they do not even have to be ceded to the buyer of the property, etc. If, however, they have not yet been cut or extracted, but are naturally..."

[*Latin ed. p. 167*]

ON THE MATTER OF THE VALUE. 167. These [things] are to be considered as belonging to the fruits [of the land], whether they be mines of iron, stone, marble, or similar substances, which have been acquired, or whether they appear to be discovered through the use and fruit already established. For the owner of the property can also operate the mines which the tenant farmer has already established, and can explore the veins... and even establish them himself, provided that it does not harm the agriculture.

The same jurist, whom the authors treat, moved on to another question, namely, what is the law if mines are discovered or established anew, and the land is thereby rendered worse? He resolved this question with the authority of the Doctors, in Garzia's treatise, *De Expens. et melioramc.*, chapter 22, paragraph 47, where he wrote: "Another case is that, even if the mines of stone, salt, minerals, metals, clay, sand, gold, and silver are not ancient, but are newly discovered, if what is extracted is renewed, it clearly belongs to the usufructuary, the vassal, the tenant, the prelate, the possessor of the inheritance, and the conductor of the fruits, because it is he who is accustomed to renew it. *I. fin. ff. de fund. dot...*"

"A third case is if the stone quarry is such that what is extracted from it is not renewed; then, in the case of the tenant, the vassal, the husband, the prelate, the bishop, the rector, and other possessors of this kind, who hold the *dominium utile*, to which not only the fruits, but also the revenues and emoluments, and the advantages, belong, it must be said that those stones quarried and the other metals, even if they are not renewed, belong to those who incur the expenses, and if they make the land worse, they will be liable for damages... Therefore, I believe that the third conclusion should be accepted. And from the aforementioned law, it follows that if the usufructuary extracts stones, sand, clay, gold, and silver, even if they are not renewed, if he uses them with the good judgment of a prudent man, 'which we interpret from the aforementioned law,' that is, if the land is made better, even if he excavates stones, even if he changes the form of the land, if that change benefits the land, then he is not liable for damages, and he must restore what has been excavated, removed, and quarried, according to the aforementioned laws; thus holds Paulus de Castro, etc."

The same is taught by Castillo de Usu fr., chapter 37, paragraph 7 and following. Furthermore, the jurist continued, agricultural experts testified that the operations had made the land better, when a mountainous and barren area of land was leveled with soil, and a fertile layer of clay was

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spread over it.

[*Latin ed. p. 168*]

168 CONCERNING THE RELEVANCE OF VALUE. The jurist argued that the present case cannot be compared to the situation involving a forest or trees that have not been felled, which are located on the land. For the trees that have not been felled are not considered as part of the land from which fruits are derived; and therefore, the felling of these trees does not constitute a loss of fruit, according to law 7, section 2, paragraphs. In the *Solutiones matrimoniales*, it is stated: "If a wife gives land to her husband as a dowry, and he then cuts down trees from it... However, I believe that if the trees were felled, or if they were fruit-bearing trees, it must be considered a loss of fruit; otherwise, if he has made the land worse, the husband will be held liable." However, this does not apply to the present case, since we are dealing with a sandy and rocky part of the land, in which, if the removal of the sand does not constitute a loss of fruit, it is difficult to see in what other way a loss could be claimed. Nor can we speak of a new fruit in the present case, other than the usual fruits of the land; for the Roman laws cited above have considered this, in which a question is raised about new mines established on land that may be intended for agriculture, from which the origin of the doubt can be seen. Furthermore, the present case cannot be confused with the discovery of a treasure on the land; for a treasure is not part of the land, and according to law 31, section 2, of *De Acquisitione Rerum Dominicarum*, it is described as: "an old repository of money, of which there is no memory, so that it is no longer owned by anyone." The jurist concluded this discussion by citing the authority of Barbosa in *Solutiones Matrimoniales*, law on Divorce, section: "If a man is being held liable for expenses incurred by someone who has made such excavations."

OBSERVATIONS FROM THE OFFICE. – As is customary, some observations have been made to the contrary: it has been noted that, although the beneficiary is often equated with the usufructuary, this is not the case in all respects, and Castillo argues the contrary, stating in *De Usufructo*, chapter 79, number 8: "But neither does the aforementioned equation of the usufructuary and the beneficiary appear to be valid in law, since the usufructuary freely disposes of these [fruits], as is certain, while the beneficiary has a different and distinct right." Furthermore, the excavation of which we are speaking should be entirely distinguished from mines, which change the destination of the land; in the present case, however, the land's destination has not been changed, but rather...

[*Latin ed. p. 169*]

ON THE PERTINENCE OF THE PRICE. 169. By an accidental cause, parts of the estate of Fondi have been divided, from which it is said that

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the estate itself has become better. Such an accidental division of property may perhaps be better compared to a treasure discovered on the estate, which is said to be a gift of fortune. If this is the case, the price should not be invested for the benefit of the beneficiary, but for the benefit of the endowment itself. Regarding this matter, two resolutions of the Sacred Congregation are recalled, namely, in Praenestina, on December 17, 1796, in which the matter of statues of great value found on canonical estates belonging to the Mass or table of the ancient canons was discussed: The canons of this ancient Mass divided the price from the sale of these statues among themselves. Subsequently, the following questions were proposed: I. "Is there a place for the restitution of the price of the statues in question in this case?" And, to the extent that it is affirmed, "in what way, and with whose favor should the same price be invested in this case?" The Sacred Congregation responded: I. Affirmative, and as a precaution, the canons of the ancient Mass should consult their conscience, and furthermore: II. Affirmative, with the favor of the ancient Mass; and to the Ordinary Bishop for execution, and furthermore. Also, in Rome, on January 28, 1834, when the canons of the Lateran Palace indicated that certain monuments of great value were hidden in the estate of the Chapter, and after excavation and the discovery of the monuments, they proposed the following questions to the Sacred Congregation: "By whose favor does the full or partial sum recovered from the sale of the monuments belong in this case?" To which the Sacred Congregation responded: Affirmative, with the full favor of the Chapter's table. And indeed, since a treasure cannot be said to be in the fruit, it should not belong to the fructuary or beneficiary; also, since the excavation, of which we are speaking, cannot be said to be in the fruit, but rather, since it is also a part of the same estate, it seems to be to be converted to the benefit of the same estate, just as the price of parts of an ecclesiastical estate sold to build a railway should be invested for the benefit of the estate, as was decided in the case of Hortanuat Verulana Emphyteusis. These and other considerations lead to the resolution of the question: "In what way, and to whom does the price in this case belong?" RESOLUTION. — The Sacred Congregation of Bishops and Regulars, after discussion on May 6, 1868, considered it appropriate to respond: The money received should be...

[*Latin ed. p. 170*]

170 CONCERNING THE APPLICABILITY OF THE PRICE. The price of a large and extraordinary excavation of stones, of the creation of sand, should be considered as a benefit and should be invested, and this was the opinion of the Sacred Congregation. The opinion of the Sacred Congregation was that, with regard to the Canonically Penitential [institution], after compensating for the expenses incurred and for the loss of natural fruits, only six hundred scudi should be invested, in addition to the 25 scudi

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already deposited; but that, with regard to the Canonically Theological [institution], the Bishop should determine the amount of the investment according to the norms previously explained. FROM WHICH WE GATHER: I. Although the beneficiary can often be equated with the usufructuary, he cannot always be equated with him in all respects. II. The usufruct is granted to the usufructuary as to a lord, who receives only for his own benefit and advantage, as much as he can receive, without, at the very least, worsening the condition of the property; but the usufruct is granted to the beneficiary for his honest sustenance; therefore, he does not enjoy the same degree of right to use and enjoy [the property]. III. Hence, the price arising from a large and extraordinary excavation of a part of the property, which, by chance, makes the property better, although it might perhaps pertain to the usufructuary, does not necessarily pertain to the beneficiary in the same way; therefore, it should be invested for the benefit of the institution itself. FROM THE SACRED CONGREGATION OF INDULGENCES, DECREE OF THE CITY. In the constitutions of the Order of the Most Holy Virgin of Mount Carmel, published in Rome in the year 1825, concerning the granting of the so-called "Sabbath privilege" for those enrolled in the Sodality of that title, there is a recitation of the Office of the Most Holy Virgin, at least in part, daily; and in the instruction book printed in the city in the year 1840, it is found: "Those who know how to read are obliged to recite the canonical hours."

[*Latin ed. p. 171*]

URBIS. 171 Regarding a great or small office. Therefore, the Procurator General of the Congregation of the Most Holy Redeemer, with humble petition, presented the following questions to the Sacred Congregation of Indulgences and the Sacred Relics, to be resolved: I. Whether the Brothers of the Holy Scapular are obligated, in order to obtain the Sabbatine Indulgence, to recite at least a small portion of the Blessed Virgin's office. II. Whether the small office should be recited according to the Roman rite. III. Whether this small office should be recited daily. IV. Whether the entire small office should be recited daily, or one Nocturn with Lauds. The Most Eminent Fathers, in the General Congregation held in the Apostolic Palace at the Vatican on July 20, 1868, having first heard the opinion of the Consultor, and after mature deliberation, judged it necessary to respond as follows: To I. Affirmative, except for those who are already obligated to recite the Divine Office. To II. Affirmative, unless someone has a proper rite approved by the Holy See. To III. Affirmative. To IV. It should be recited the Nocturn of the day with Lauds, and the other hours of that office. And after a report on the foregoing was made to His Most Holy Majesty, Pope Pius IX, by me, the undersigned Cardinal Prefect, in an audience held on August 18, 1868, His Holiness approved the resolution of the Sacred Congregation. Given at Rome, from the Secretariat of the same Sacred Congregation, on

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the day and year as above. A. Card. BIZZARRI, Prefect. A. Colombo, Secretary. Observations of the Consultor. The Consultor, who was a Religious of the Carmelite Order, before expressing his opinion, considered the following, among other things: Among the privileges with which the Blessed Virgin distinguished the Carmelite Order, the greatest is that in which she promised to provide help to the souls of the Brothers detained in purgatory on the first Saturday after their death; hence, this privilege has been called the Sabbatine.

[*Latin ed. p. 172*]

172 OF THE CITY. and the Constitution of John XXII concerning this matter, which was called the "Sabbatine Bull." In this same Constitution, whose contents confirmed the privileges by Alexander V, Clement VII, and Gregory XIII, the Brothers were ordered to recite the canonical hours with these words: "The Brothers and Sisters shall be bound to recite the canonical hours according to the rule given by Albert." In the writings of Casanat, it is also read: "But I will that the Brothers or Sisters (of the sacred Scapular) shall be bound to recite the canonical hours according to the rule given by Albert." In the Constitution of Clement VII, issued on August 12, 1530, in the explanatory section, it is read: "And that the Brothers, wishing to participate in the graces of their predecessors, ought to recite the canonical hours, according to the form granted and ordered to this Order by Albert the Patriarch: hence, the Brothers seeking the Sabbatine Indulgence are bound to recite the canonical office according to the form proposed by Saint Albert the Patriarch of Jerusalem to the Hermits of Mount Carmel." Furthermore, the Consultant stated that the same Blessed Albert, in his rule concerning the canonical hours, chapter 8, did not prescribe anything other than the recitation of the divine office according to the institution of the Holy Fathers and the custom approved by the Church; and that the Carmelites, by the force of their own rule, were not bound to any particular office, but from the beginning recited it according to the Jerusalemite rite to which those churches were devoted, and still observe that manner; and that the Carmelites have always taught, according to the judgment of their own rule, that in order to obtain said privilege, it is not necessary to recite a particular office, but that it suffices to recite another, according to the custom approved by the Church. Since, according to the custom approved by the Church, even the Little Office of the Blessed Virgin Mary is recited, the Consultant believed that this office could also be understood through the generic term of canonical hours, as Navarius, in *De Orat.*, chapter 10, number 4, considered it to be a part of the canonical hours, and for many centuries, by the decision of the Council of Clermont convened by Urban II, it had been permitted to monks and clergy, and also extended to the laity of both sexes, as narrated by Baronius in the year 1095: hence, justly and rightfully, the older Carmelites, among whom were Lucius of Belgium,

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Sylvester, and Thomas of Jesus, taught the members of the sacred Scapular.

[*Latin ed. p. 173*]

URBIS. One hundred and seventy-three. It suffices to satisfy the obligation of reciting the canonical hours with only the recitation of the Little Office: and this judgment has been held valid by the Holy Congregation of the Holy Office, by Decree of the year 1613, which was confirmed by the authority of Paul V: and the Little Office has been recited. Although it is not expressly written in the aforementioned Constitutions that the daily recitation is required, nevertheless, since it is mentioned therein that the recitation should be performed according to the form of Albert, which is according to the institution of the Holy Fathers and the approved custom of the Church, therefore, the daily recitation appears to be prescribed to the Brothers. Furthermore, the Consultor argued that the Little Office must be recited in its entirety, both from the lack of reason that would suggest the contrary, and from the fact that the Greater Office is to be recited in its entirety; therefore, it is not sufficient to recite only one nocturn of the Little Office with the praises in order to obtain that indulgence. From WHICH IT IS UNDERSTOOD: I. The Sabbath Indulgence, which is piously believed to have originated from the very promise of the Virgin Mary, is not received by all the Brothers of the Holy Scapular. II. To obtain it, besides admission to the pious confraternity, it is required for those who are able to recite the Office, to recite the canonical Office daily, at least the Little Office (1). III. The condition of reciting the Little Office is sufficiently fulfilled by reciting one nocturn of the day with the praises and the other hours according to the canonical custom. (1) Those Brothers who are not able to recite the Office, can obtain this Sabbath Indulgence through other works prescribed in place of the Office: these works prescribed in the aforementioned part of the Constitution of Clement VII are as follows: Those who are ignorant of letters, on the days on which the Holy Church commands fasting, should fast, and also on Thursdays and Saturdays for the entire duration of their lives, except on the day on which any of the aforementioned feasts coincides with the Nativity of Our Lord Jesus Christ; they should abstain from meat. In this Constitution, all the privileges of the Carmelite Order were confirmed, and, for greater caution, all of them were granted anew.

[*Latin ed. p. 174*]

174 APPENDIX III. CONCERNING THE GENERAL DECREE OF THE HOLY CONGREGATION FOR RITES, BY WHICH THE QUESTION WAS DEFINITIVELY SETTLED, WHETHER THE HOLY COMMUNION CAN BE DISTRIBUTED TO THE FAITHFUL AT MISSES FOR THE DECEASED, EITHER BY OPENING THE TABERNACLE BEFORE AND AFTER THE BLACK VESTMENTS ARE WORN DURING THE CELEBRATION OF THE MASS.

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This general Decree was presented above on page 42, but since this question has been thoroughly discussed before the Holy Congregation for Rites in order to be definitively settled, it is fitting, as I will explain in the following sections, what has been extensively presented by the Consultors. In every respect in which this question could be considered, it was considered, that is, historically, archaeologically, hermeneutically, and even dogmatically. In this present Appendix, I will only explain the historical state of the question. It is not necessary to repeat the Decrees of the Holy Congregation for Rites which were published as early as the year 1683, which indeed are largely indicated in the very general Decree, so as to demonstrate that such a question remained as if in suspense, until it was thoroughly discussed and definitively settled, as is clearly evident from the very acts of that Holy Congregation.

The question was raised among the writers on liturgical matters, whether the Holy Communion should be excluded from Masses for the Deceased: Gabriel de l'Aubespiue excluded this Communion in his work "De veteribus Ecclesiae ritibus," book 1, observation 17, and those who followed him, either absolutely, as Charles Veuauzi in "Pratica delle sacre Cerimonie," chapter 7, or conditionally, as those who taught that it is not fitting to distribute the Holy Communion in such Masses, as Michael Baldry in "Manuale sacr. caeremoniarum," part 3, chapter 7, title 1, number 4, and Bartholomew Gavanto in "Thesaurus sacr. Rituum," part 2, title 10, number 6, who nevertheless in part 2, title 13, rubric number 1, letter u, assumes that the Communion can be administered absolutely in Masses for the Requiem.

Another question, which has been greatly debated among the authors, is whether Communion can be given in those same Masses with consecrated particles. This particular question has been written about by Caesar Benvenuti, Caietan Maria Merati, and later by John Michael Cavalieri and Ferdinand Tetamus. Benvenuti published a work in 1726 entitled "Sacerdos ad altare celebrans in Missa privata," in which he expressed a negative opinion; on the contrary, Merati in his work "ad Gavantum," part 1, volume 1, defends the affirmative opinion. Cavalieri defended Benvenuti's opinion in "Comment, in auth. Decret, volume 4, Decret. 6, chapter in Ord. 3, 9." Tetamus responded to Cavalieri in "Diario liturg.," volume 4, part 1, page 3, part 2, chapter 2, note 2, new section 3, number 72. But as the state of the question appears...

[*Latin ed. p. 175*]

In order that some opinion may be held on this matter, it is expedient to extract certain points from the exposition of the authors. Thus, Calerius, in his "De Usu Focorum," wrote: "The Communion of the Faithful in Masses for the Dead is admitted by Castaldus, lib. 2, cap. 34, n. 8; it is rejected by Gavantus, part. 2... The Abbot Benvenuti distinguishes between it, and

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that which is received with particles in the same Mass, and denies that it is licit, but recently Meratus, contrary to custom, abandoning Gavantus, and rejecting Benvenuti's distinction, declares that Communion to be licit, whether it be received from particles in the same sacrifice, or from unconsecrated hosts; and the opinion of Meratus is adopted by Benedict XIV, Anno 1742, tom. 2, part. 4, sect. 2, n. 161. Regarding particles in the same Mass, he relies on: 1. The Council of Trent, which in session 22, cap. 6, generally declares that, in all Masses, (and therefore in those for the Dead), the faithful present should receive the sacramental Eucharist, and not merely with a spiritual effect, so that the fruits of this most holy sacrifice may be more abundantly conferred upon them. 2. Because, even in Masses for the Dead, the antiphons "Communion" and "Postcommunion" are said; the former being sung when the faithful communicate; the latter, after the Communion of the faithful is completed. 3. In those words of the Canon: "As many as from this altar shall have partaken of the sacred Body and Blood of thy Son..." This commingling and consecration should be for us who receive it, unto life eternal, etc. 4. Finally, in the rubric under the pontificate of Urban VIII, inserted in the "Missale Defunctorum": "If there are any to be communicated, let him communicate them, before he purifies himself."

Those who hold the opposite opinion, produce these arguments: 1. That, in the case of the doubt presented to the Sacred Congregation, whether it is licit to distribute the Eucharist in Masses for the Requiem, the same Congregation, on June 22, 1701, responded: negatively; 2. That the Sacred Host was not administered in Masses for the Dead, in ancient times, as William, Abbot of the place commonly called Hirsau, writes in "De Disciplina Monast.", fol. 457: "If you sing Masses for the Dead, no one but himself alone should communicate"; 3. Because, in Masses for the Dead, the blessing at the end of the Mass is not licit; therefore, they should not be dismissed without any blessing whatsoever. To this, Meratus replies, part. 2, iii, 10, n. 28, and to the first, that indeed the aforementioned Decree was issued, but with valid reasons, it was suspended by the same Congregation on March 21, 1711, and its copy was prohibited from being given out, and it should not be considered, especially since it has not been in use in the city of Rome itself. To the second, indeed, but not precisely because they were Masses for the Dead, but because such Masses were private, as is clearly stated in canon 4.

[*Latin ed. p. 176*]

180 OF PREEMINENT RIGHTS AND A VOICE IN THE CHAPTER. "Of parochial rights, and so forth," – thus, it cannot be doubted that the Chapter intended only to admit a supernumerary and external Canon, and certainly not to increase the number beyond the established six, since this would have certainly been prejudicial to the ancient Canons, as can be seen from

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the Constitutions of Castres, etc. Also, in the confirmatory decision of December 11, 1713, before Barbadico, §, the following is read: "And indeed, this was understood with unwavering clarity, because, following the erection of the Canonry by Faustus, his procurator was sent to take possession of it under the explicit declaration that he would never be able to, nor should he ever have, a voice in the Chapter, just as the other three Canons do not have, who are not part of the Chapter, and to him was assigned the last seat among those three supernumerary Canons. Therefore, it is clearly demonstrated that the preceding erection of the Canonry was admitted and approved by the ancient Canons only under the condition of establishing a Canon merely honorary, separated from the body of the Chapter. Furthermore, it was agreed that he never interfered in any way in the affairs of the Chapter, which certainly demonstrates a complete separation from the Canons of the Chapter, although other rights should not have been denied to him regarding matters pertaining to the Chapter..." The Orator then demonstrated that this doctrine is applicable to our case, based on the acts that followed the erection of the two Canonries in question. These Canons were always considered to be separate from the Chapter, as supernumeraries, as honorary members, and they did not bear the burdens that are incumbent upon the Canons of the Chapter, such as the annual payment (1) to be considered for the maintenance of the fabric and sacristy, nor the other burdens that pertain to the decorum of the collegiate church. With these points established, the Orator confirmed the doctrine of the Sacred Roman Rota, citing the authority of Doctors, on this matter, as Fagnanus writes in Chapter "Dilectus de Praeb." n. 18 and following: "Therefore, I raise a doubt as to whether Canons beyond the established number should have..."

(1) Regarding this annual payment, reference is made to the Constitution of Benedict XIII, "Pius ac misericors," issued in the Roman Council in the year 1725 for Italy and the adjacent islands, which can be consulted in the case mentioned in Volume II, page 93.

[*Latin ed. p. 177*]

177 FROM S, CONCERNING THE DOMINION, JURISDICTION, PRIVILEGES, AND VOICE IN CHAPTER. January 11th and August 29th, 1868. Summary of the matter. In the town of the diocese of N., there was formerly only one parish church, which, due to the growing population, proved insufficient. The Roman Prince, Baron of the same town, most munificent, in the past century, built a new temple from the foundations, elegantly furnishing it with necessary items and richly providing it with sacred furnishings, and it is said that he spent approximately fifty thousand scudi on this work. To further enhance the splendor of this distinguished temple and to increase the Divine worship, he obtained, on September 1st, 1725, Apostolic Letters from the Most Reverend Benedict XIII, by which the afore-

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mentioned parish church was elevated to a Collegiate church, consisting of two Dignities, that is, an Abbot and a Primicerius, who would perform the duties of pastors, along with ten Canons and four Beneficiaries, with a Chapter, choir, chapter table, chest, bursary, and common seal. An endowment was established for the Chapter, and the faculty to administer and govern the same church was granted to the Chapter. With these things thus established, the same Pontiff granted to the Prince founder and his heirs and successors the right of patronage and presentation, not by Apostolic privilege, but by the original, real, and actual, complete, and every way perfect, and perpetual lay endowment made from purely lay goods. At the end of the past century, a certain Anthony, in his will, appointed a trustee, the Priest John, and entrusted to him the inheritance to be used for some pious cause. John, diligently fulfilling the office entrusted to him, proposed the erection of two Canonries in the same Collegiate church, one of which would have the office of Penitentiary attached to it, and the other the office of Theoria, vol. I, part II, page 40.

[*Latin ed. p. 178*]

178 CONCERNING PRE-EMINENT RIGHTS AND THE VOICE IN CHAPTER. The office [of the proposed new canons] was to be established, provided that the actual patron gave his necessary consent. However, if such consent could not be obtained, he proposed that two chaplaincies be erected by the Bishop. The Chapter, according to the wishes of the heir's trustee, examined the matter on June 9, 1795, by the patron, but only with the condition that no other privileges be granted to them besides a seat in the choir and the common canonical insignia. The patron replied that it should be inquired whether, through this erection, his rights and those of his successors would remain entirely intact, nor whether the rights of the canons and beneficiaries would be infringed, even in a minor matter. Hence, a delay of almost six years ensued. The two presbyters, already designated by John, insisted, and, having obtained consent from both the Chapter and the patron, they obtained it: that is, from the patron, with the condition that the possessors of the erected benefices could in no way interfere in the affairs of the chapter, and therefore would be absent from all, whether ordinary or extraordinary, chapter meetings; and also that these same possessors would always have the last seat in the choir, after the canons appointed by the same patron: indeed, the patron added that the present consent given should be valid only for the two petitioners, and that subsequently, and forever, each future and new canon should obtain the same consent from the actual patron of the collegiate church. They also obtained consent from the Chapter, but with the condition that they should neither be admitted to participate in the revenues from funerals, anniversaries, and other functions or legacies left to the Chapter, nor acquire any active or consultative voice, etc. According to these conditions

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imposed by the patron and the Chapter, John's procurator petitioned the Ordinary to draw up the instrument of erection: which was indeed completed with the aforementioned consents, approvals, and chapter laws and reservations. Thus, the new canons were instituted according to such laws, which have been strictly observed until the present time by them and by their successors as well. However, the present canons, the theologian and the penitentiary, although they have thus far observed the prescribed laws, are in a state...

[*Latin ed. p. 179*]

IN THE CHAPTER CONCERNING RIGHTS, 179, they declared that they considered themselves to be in a very grave and humble position, and they protested, stating that the conditions presented should be declared null and void. Therefore, after hearing the Bishop and the others present, the doubts which we mention at the end were proposed to the Sacred Congregation for resolution. DISPUTATION. DEFENSE OF THE CHAPTER. — The advocate, who defended the rights of the Chapter, initially pointed out that, although the founder cannot establish laws contrary to the laws of nature or of divine right, he can nevertheless choose the forms of benefices which he judges to be better. In the present case, the founder had established a trust, to which full power was granted, and this trust had established two prebends in the collegiate church for the offices of Penitentiary and Theologian, with the consent of both the Chapter and the Patron, so that, according to the agreements reached, the prebends would indeed bear the name of canonries, but would lack all the rights which constitute a proper canonry, and the new canons would enjoy only the honor of the stall or seat, and the canonical insignia, as far as the Patron would allow: therefore, such honors would not belong to the new canons by right of the prebends, but would have to be granted to them individually each time; and these canons would be bound to the choral obligations not by reason of their canonry, but by a special obligation imposed by the founder: and therefore they would be considered as supernumerary or honorary canons. The advocate confirmed this with the teaching of the Sacred Rota in the case of Novare, precedent of July 3, 1713, before Lancetta §. In which it is written: "The judges considered that the canonry held by Fausto could only be considered among the canons who are called supernumerary, and that it had no connection or union with the true Chapter, and that, maintaining the facts previously explained, this was inferred from the acts carried out in the erection itself, as well as before and after the erection. As for what preceded the erection, the instrument of consent given by the Chapter for the erection of this canonry clearly shows that this canonry is not incorporated and annexed to the others, and that the canons truly gave their consent, but with a reservation - there - without any prejudice to the

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Chapter, and to its..."

[*Latin ed. p. 180*]

176 APPENDIX: Concerning the Council of Valencia in the year 529; in private Masses, or those offered for the living or the dead, the Eucharist was not administered, but only during sacred solemnities, as Albass, in *De Velis Rerib.*, book 1, observation 17, notes, as Gavantus states in *Paral.* 2, title 10, number 4, letter I. But when the old discipline ceased, and the new one succeeded, which indiscriminately admits the faithful to Communion in all Masses, even those for the Dead, as has been fully shown above, there is no reason to doubt the licitness of the faithful receiving Communion in Masses for the Requiem. Regarding the third point, the absence of a blessing at the end of the Mass does not affect the Communion of the faithful, who, through the Eucharist, receive the very source of blessings and the Author thereof.

III. These are indeed many, and so firmly grounded in reason, that they have been approved by decisions of the Sacred Congregation, and for that reason, in the present Decree, the Communion of the faithful is approved in Masses for the Dead, from particles consecrated in the same Mass. We must now consider the reasons by which the same author uses to prove that Communion is also licit from consecrated particles and from those taken from the tabernacle. These are:

1. Because all the arguments by which the licit administration of the Eucharist is proven within a Mass for the Dead speak generally, and not specifically of only those particles consecrated in the same Mass.

2. Moreover, if, as some claim, it must be limited to particles consecrated in the same Mass, the same would apply to Masses for the living, in which, however, no author teaches that the Eucharist cannot be distributed with consecrated particles.

3. Because that difference, which some make between particles consecrated in the same Mass and those consecrated beforehand (which, indeed, means that Communion with the former is participation in the sacrifice, but not so with the latter), is not known from the fact that those faithful who are present at the sacrifice cannot truly be said to be sacrificing, but rather are participating at the altar, or with the victim offered; hence, in that prayer of the Canon, which the priest recites after the consecration, it is said: "May those, etc."

4. For, as the Council of Trent states in the cited passage, "those who are present, etc."

These reasons were not considered as valid by Cavalerius; but Tetamus opposed Cavalerius, as I mentioned above. From this example, the reader can see the state in which this question is found. In another Appendix, we will summarize the same question, which has been previously examined

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archaeologically by one of the Consultors.

[*Latin ed. p. 181*]

OF PRE-EMINENT RIGHTS AND A VOICE IN CHAPTER. 181 "A light in the choir, a voice in the Chapter, and daily distributions..." I believe it should be distinguished as follows: either the reception beyond the number is simply by the Chapter, and therefore the one received must have a stall in the choir, a voice in the Chapter, etc. Or the reception beyond the number is by the Chapter, but with the addition that the one received is 'supernumerary,' and then he does not possess canonical rights; because the Chapter, by receiving with such an addition or protestation, is considered to have not wished to break the number, but to grant a certain right outside the ordinary; hence, one received in this way does not have a complete and ordinary right. Also, Cardinal De Luca, *De Canon.*, book 3, chapter 7, paragraph 5: "Another species are those canons who are supernumerary, who are not part of the body of the Chapter, nor do they participate in its distributions, but are truly beneficed in that church with the honorary title of canons, according to the species of that canonry of which we are speaking, dec. 2, 9, 4, etc., and likewise, the same reasoning applies, that these are not truly canons in reality, but only in honorary title." The same is stated by Panimoll., decision 98, book 2, chapter 1. Ceccoper., *Lucubr. canon.*, book 1, title 14, paragraph 35, and especially the Holy Rota in the cited decision, before Barbadico, in which it is also read: "But in the case in question, if the ancient number of canons is preserved, and a canon is newly admitted, he shall have no participation or association with the ancient canons, and he shall constitute the figure of a canon merely honorary and supernumerary; hence, he is not considered part of the Chapter, and consequently, he cannot enjoy the rights and privileges belonging to the ancient canons." After these remarks, the Advocate removed the difficulties that could be raised from the letters of collation, in which it is customary to write of possession with a stall in the choir and a place in the Chapter of that collegiate church, with the fullness of these rights; but the Advocate confirmed this with the teaching of the same Holy Rota in the alleged confirmatory decision, in which it is read concerning the matter: "Of even lesser importance was the subsequent institution to the same canonry by Faustus, where all the rights pertaining to the other canons are conferred, both because the Ordinary could not, by changing what had been previously arranged, grant an institution different from the erection and foundation, to the prejudice of the Chapter; and also because, in that same institution, Faustus did not at all consider the possession of the canonry."

[*Latin ed. p. 182*]

182 CONCERNING PRE-EMINENT RIGHTS AND THE MATTER OF A VOICE IN CHAPTER. "He accepted and approved [the proposal] as a

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supernumerary canon," and [he was] separated from the body of the Chapter... He removed the second difficulty, which had been raised, namely, that in our case, similar letters of collation were customarily granted by the Apostolic Delegation. He demonstrated through legal inquiry that, even in collations performed by the Supreme Pontiff himself, the status of a Benefice was never altered, unless the intention to alter it is evident in the Supreme Pontiff, as taught by St. Boba in Decretals 263, page 4, item 1, number 3, and especially in Decretals 104, page 10, number 13, where it is written: "Indeed, Apostolic collations from the years 1629 and 1636 cannot be alleged, unless the Forty Days [of grace] concur, and the intention of the Pontiff to alter the status is evident, and the knowledge and consent of those who would suffer prejudice from this change in status are present." But since the more significant difficulty, which initially presented itself, was that which was requested on behalf of the Penitentiary and the Theologian, who, because of these more noble offices, seemed unable to be separated from the Chapter, this difficulty was removed by the aforementioned considerations. Regarding the Penitentiary, he observed that, according to the law, he is established as a Parochial Vicar for the entire diocese, as Barbosa de Canon and Dignitates, chapter 26, number 12, states: "He, by very reason of his institution as Penitentiary, has, by law and by the Council, the faculty of hearing the confessions of the penitents of that diocese, and jurisdiction to absolve them from sins, and he is considered as a Parochial Vicar for the entire diocese." Also, Fagnanus, in chapter "Grave de Praeb, et Dignitates," writes of him in such a way that he is "as if a Parochial Vicar for the entire diocese, and he has the right to hear the confessions of the diocesans, not by a special commission from the Bishop, but by law, that is, by the Council of Trent, and therefore he ought to be considered ordinary." Therefore, since the office of the Penitentiary, from which those faculties and jurisdiction derive, is established by ecclesiastical law, he argued that it could not be extended beyond the case expressly stated by that law; furthermore, the Tridentine law, session 24, chapter 8, concerning the institution of the Penitentiary, is understood to apply only to cathedral churches; and this has been defined several times by the Holy See (S. C.). Therefore, if we are speaking of collegiate churches, the office of the Penitentiary cannot be established without the approval of the Apostolic See, as has been observed.

[*Latin ed. p. 183*]

Angelus Lucidi, in his work on the Reverend Fathers, Volume 1, page 78, number 71, states: "It must be noted that, although the Penitentiary, by the force of his office, receives confessions and possesses other faculties, the Bishop, without Apostolic approval, cannot grant to the Penitentiary, while he is serving in a Collegiate church, those faculties which are inherent in his office." Based on these observations, the Orator concluded as follows:

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either the office of the Penitentiary in the Collegiate church of which we are speaking was established by the Ordinary without Apostolic permission, and in that case, the opponents unjustly claim canonical privileges; or the Ordinary understood the true office of the Penitentiary and, in that case, such an establishment would be invalid, and such an establishment, made without proper authority, could not be converted into a true Canonry, given its simple nature.

Regarding the office of the Theologian, the Orator stated that the Council of Trent indeed established that such an office should be established in Collegiate churches located in some notable town: but since the judgment regarding the type of town is left to the judgment of the judge, in the present matter, the tacit judgment of Benedict XIII must be considered. For this Pope, on May 19, 1725, issued the famous Constitution, *Pastoralis officii*, in which he encouraged the establishment of a Theological Prebend. Three months later, he elevated the parish church of which we are speaking to a Collegiate church; he himself came to the town to consecrate the new church; he distributed the dignities and canonries of the College, but he did not mention the office of the Theologian. Therefore, the Orator inferred, this same Pope did not judge that town to be subject to the law of Trent in this matter; if, therefore, that office was established later, it could also have been added without the necessity of the law.

Furthermore, he confirmed this with reference to the very disposition of Trent in Session 5, chapter 1, concerning reforms, according to which the office of the Theologian can be joined even with a stipend or any name whatsoever. If those new Canons were to be considered as endowed with canonical law, so that the question would be limited to the right of precedence of which we spoke in the first doubt, it again showed that, in these circumstances, custom must be observed as the principal thing.

[*Latin ed. p. 184*]

184 Regarding the privileges and the voice in the chapter, the norm, and moreover the law concerning the foundation, which, if they require someone to perpetually hold a canonical seat in the final seat, must be scrupulously observed, as the Sacred Congregation of Rites has repeatedly decreed in similar cases. And in this matter, the Orator cited several resolutions of the Sacred Congregation. Specifically, he mentioned the case of the City of Castellarne in the year 1833, in which the chapter, upon the initial erection of the canons in the cathedral church, admitted two new canons under the condition that the new canons would not enjoy the precedence of the seat, but would occupy the two final seats perpetually, and in the event of a vacancy, would not be able to advance to higher seats. A question was then proposed to the Sacred Congregation on July 16th of the same year: "Whether the condition imposed by the chapter in the erection should be confirmed or rejected?" To which the response was: "Affirmatively, regard-

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ing the first part, and negatively, regarding the second." And although the Sacred Congregation, the following year, receded from this resolution, the Orator stated that this occurred not for any other reason, except because the law of the founder became known, who in her will had intended to equate the canons being erected with the two canons already erected, who enjoyed the right of precedence; for to contravene this will of the founder, no one may, except the Supreme Pontiff. Furthermore, in Rome, on February 18, 1865, a question was debated: "Whether there exists a legal precedence in the choir and processions in favor of the canons Magnoni, Amidei, Belli, and Piccolomini, together with the canons of the first erection?" And since the law of erection clearly excluded the canons Amidei and Belli from the right of precedence, the response was negative, regarding them. However, he argued, if it should appear that this matter has been resolved differently at some time, it should be understood to be so because it is being considered either regarding the propriety of a law being given to a canon being erected, or regarding a canon already erected with conditions contrary to the will of the founder. Regarding the second question, he observed that it must be subject to two limitations: the first being that the new canons cannot participate in legacies specifically left to the chapter of the first erection; and this is by certain law. The second limitation, he stated, is that if a certain sum of money is given generally for funeral expenses, with the right to accrue interest, the new canons cannot participate in it, because otherwise, it would be detrimental.

[*Latin ed. p. 185*]

REGARDING THE PRE-EMINENT RIGHTS AND THE VOICE IN CHAPTER. 185. The Canons of the first class, according to what is understood from Cardinal De Luca in *De Canon. Disc.* 6, n. 1, 4, are erected, as it were. However, in fact, it was demonstrated that these new Canons were admitted to the participation of emoluments, when, according to the will of the Benefactor, they were considered called; but they could not demand that others, such as legatees, be admitted to participation in matters that customarily pertain to the Chapter, regarding which he cited the Resolution of the Sacred Congregation of Councils in Faventina, on December 21, 1564, in the following case: "Can the Archpriest, as mentioned above (excluded by the Bull of erection), participate in the distribution and emoluments of alms, which are given to the Chapter for funerals and anniversaries celebrated on the occasion of funerals, which are distributed among the present?" The response was: "The Archpriest should not participate in those things which come into the hands of the Treasurer, from which the portion of the other Canons is diminished. Nor can these Canons demand the right to increase the portions of the Chapter, perhaps because those who are absent, since the increase of the right would presuppose communion of the members in

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the matter being divided, *Cap.* *De Cler.* non resident, and because the new Canons, in upon, ought to admit the Chapter members to the perception of their own emoluments." Regarding the third case, since the opponents demanded intervention in the Chapter sessions, in which the matter of the mass of the Chapter's Prebends was not being discussed, the Advocate responded that all the revenues of the sacristy and the fabric were indeed distinguished in that Collegiate Church from the revenues of the Prebends, but that they came from the same endowment and table, and that the administration of all of them had been entrusted to the Chapter by Apostolic Letters, so that they constituted one mass. Since this administration was considered among the rights of the Chapter, it was futile for the new Canons to seek this intervention, as in Eugubina, in the Erection of the Canons on March 26, 1703, regarding the case: "Whether these Canons have the right to attend the Chapter sessions, and in what matters?" The Sacred Congregation of Councils responded: "Affirmatively, in all matters, except those that concern the interests and rights of the old Canons." Also, in S. Miniatis on November 24, 1827, regarding the case: "In what matters does a Canon Theologus enjoy the active and passive voice?"

[*Latin ed. p. 186*]

186 CONCERNING PRE-EMINENT RIGHTS AND VOICE IN THE CHAPTER. He responded: Affirmative in all matters, except those concerning the common Mass and goods pertaining to the Chapter, before the erection of the theological prebend. Furthermore, those same Canons should be excluded from the election of officials and from serving the collegiate church, as Ceccoperius teaches in *Lucubr. canon.*, book 1, title 14, paragraph 3, 4: "If the emoluments and salaries for those officials of the church and sacristy were paid from the Mass of the ancient Canons, then the new Canons would not be admitted to give their votes in the elections of those same officials, to the extent that they also contribute in proportion to the stipends; for if they wished to exempt themselves from the burden of payment, they would also be excluded from the act of election, because new Canons, just as they are admitted to the prerogatives and canonical rights, must also bear the disadvantages, as all equity suggests." Thus far, the Orator of the Chapter. The Principal Patron also defended his rights through his own Orator; but it is sufficient to have presented these points. DEFENSE OF THE THEOLOGIAN AND PENITENTIARY. The Orator, at the beginning, described the humble state in which these Canons found themselves, being excluded from any matter of the Chapter, although they were entrusted with the office of Penitentiary and Theologian, and argued that, in order to resolve the matter, they must be considered true Canons endowed with canonical rights; and he especially sought to demonstrate this through the Apostolic Letters issued by the Datary, by

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which they are customarily admitted to the possession of these prebends. In such Letters, the following is stated: "Having admitted you to the corporal possession of the aforementioned Canonicates and Prebends, and of the annexed rights and properties, and having defended your possession by our authority, removing any detainer, you are to be received as Canons in this collegiate church, and as brothers, with a stall for you in the choir and a place in the Chapter of the aforementioned collegiate church, and with the full extent of these rights, and you are to receive fully the fruits, revenues, profits, rights, emoluments, and all benefits of the aforementioned Canonicates and Prebends and their annexes. Those who contradict this by our aforementioned authority, with a postponed appeal, are to be restrained. Notwithstanding, etc." Therefore, from the tenor of these Letters, the canonry is granted to them, which consists in being received as brothers, with a stall and a place.

[*Latin ed. p. 187*]

REGARDING THE PRE-EMINENT RIGHTS AND THE VOCATION IN CHAPTER 187. Concerning the rights and privileges in the chapter, and other rights and honors, it cannot be said that those are lacking in canonical status, just as the honorary canons are lacking in this status. The Orator maintained this point from the very canonical erection of those canons, whereby, he argued, they necessarily become true canons, according to what is stated by De Luca, *De Canon.*, book 6, chapter 12: "Having a valid erection in this matter, concerning Collen, which pertains to the first doubt concerning the Vocation in Chapter, it was affirmed and resolved. And this resolution seemed just to me, although I am writing to the contrary, because if they were canonically erected, nothing would prevent them from enjoying such pre-eminent rights, which are inherent in their canonical status... and it is in the very sense of the office of canons."

Furthermore, the Orator distinguished three kinds of canons, as cited by Cardinal De Luca, *loc. cit.*, book 3, chapter 7, the first of which are those who, while awaiting the bestowal of prebends (which are no longer commonly granted), are awaiting a vacancy in some canonry. But it is expedient to quote the words of the same Cardinal: "These are properly those canons *in statu expectationis*, who are commonly called by Doctors as canons *in herbis*, because in truth they are not such in reality, but only in expectation; and in this case, the proposition is true that they do not enjoy canonical pre-eminences, nor do they occupy a place, until they are in this state."

The second kind are those canons who are above the established number, who are not part of the chapter, nor do they participate in its distributions, but are truly beneficed in that church with the honorary designation of canons... and likewise, the same proposition holds true by identity of reason, that these are not true canons in reality, but only in honorary designa-

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tion.

Finally, there is a third kind of canons, who, due to increased revenues, are validly and legitimately erected above the old and customary number, with all kinds of canonical pre-eminences and privileges, and with the incorporation of these new members with the old body... and then this term "supranumerarii" is used improperly and in a certain vulgar way of speaking, in order to distinguish canons newly erected from the old ones; truly, however, having a valid and legitimate erection, so that the acts have...

[*Latin ed. p. 188*]

188 CONCERNING THE PRE-EMINENT RIGHTS AND THE VOICE IN CHAPTER. "It is not to be presumed that, unless otherwise stated, all are considered equally Canonicals of the same nature, without any difference, except in those things which have been expressly excepted in the erection." The Orator maintained that the Canons of whom we are speaking should be considered as a third class of Canons. And since he demonstrated that these were true Canons endowed with canons, he readily showed, according to the teaching of Doctors and of the Tribunal, that they ought to enjoy a stall in the choir, the right of precedence, the voice in the Chapter, and participation in the emoluments, in which the canons consist. Moreover, since we are not speaking of simple Canons, but of a Theologian and a Penitentiary, according to the Tridentine norm, who obtain a canonry through agreement, and who are admitted to possession by Apostolic Bulls, it was argued that the most serious obstacle consisted in the conditions imposed by the Chapter and the Patron in the erection of the canonry, that these were vitiated and invalid, both because they were imposed arbitrarily and contrary to the law, and because they were not supported by the approval of any ecclesiastical superior, nor recognized by the Holy See. With these and other arguments, the doubts were to be resolved. I. "In what order should the Canon, the Theologian and the Penitentiary sit in the choir and proceed in ecclesiastical functions?" II. "Should these same Canons be admitted to participate in the emoluments derived from funerals, anniversaries, and other functions, or legacies bequeathed to the Chapter after the erection of the Theological Prebend and the Penitentiary?" III. "Should the Canon, the Theologian and the Penitentiary enjoy the active and passive voice in the Chapter sessions?"

RESOLUTION. — The Congregation of the Council, on January 11, 1868, delivered a Resolution, but the reason for this was known on August 29, 1868, and it was decided to respond. To I, II, and III: Nothing is to be changed, and furthermore.

[*Latin ed. p. 189*]

ON THE PRE-EMINENT RIGHTS AND THE VOCATION IN CHAP-

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TER 189. FROM QUIRUS, AMONG OTHER THINGS, ARE GATHERED: I. Those who are added to a certain Chapter by canon law, even though they possess a prebend, can be simply honorary canons. II. These honorary canons are those who do not enjoy the principal rights of a canon (1). III. In collegiate churches, even those of lesser importance, there can indeed be, by a special foundation, not only theologians, but also confessors. IV. The office of confessor established in a collegiate church, besides (1) the name of canon, is nothing other than a name that refers to an abstract concept; just as we say "friendship" to our friend, so we say "canon" to a canon. Therefore, under the name of "canon," nothing else is meant than the rights and duties common to canons, such as the right to a prebend in the same way that the titular holds it, and not as it is held by a commendatory or administrator; the right to exercise active and passive suffrage in matters pertaining to the Chapter; the right to the honors established by ecclesiastical laws, such as a seat in the choir, canonical insignia, precedence over the lower clergy, etc.; the duty of properly chanting; the duty of celebrating the conventual Mass; the duty of attending to the divine worship in the church and to its decor, etc., which are correlative to these rights. All of these are contained within the concept of "canon." Therefore, when, in sum, these rights and duties are considered, the root of which is the real possession of a canonical prebend in title, or incardination, or investiture in the prebend, if such a prebend is given, which is called a canonical prebend, from which possession these rights and duties do not flow, the canon who possesses it will not be a true and perfect canon. However, he may more or less approach the fullness of the canon, depending on how much he participates in these rights. If, however, he is deprived of these rights, and performs only choral duties, he will be a choral prebendary; if, on the other hand, he enjoys external insignia of canons, besides choral duties, and is called a canon, he will be an honorary canon. Thus, even in canon law, what is taught in philosophy about the essences of things is excellently understood. However, it is not preferable that the Apostolic Briefs, when issuing letters of collation for a certain canonical prebend, which is usually called an honorary prebend, do not call it an "honorary prebend" absolutely, but use these words: "Prebend nuncupata honoraria," or "Canonicus honorarius nuncupatus"; and this is not without reason, because the titular possession of a canonical prebend is often the foundation and root of the canon, as I have said. What, however, should be said about those Chapters whose canons either do not have a prebend, or in place of a prebend have a salary from the government or from others? If we are speaking of the former, they will not be canons according to the concept of the Holy Canons, but are reduced to honorary canons to whom the Bishop grants honors for special offices entrusted to them, imitating the offices of canons. If we are speaking of the latter, the salary is in place of the prebend, although the salary is rather a certain compensation for services rendered or to be rendered, and

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does not surpass the firmness that the Church always intends in its most wise institutions.

[*Latin ed. p. 190*]

190 CONCERNING PRE-EMINENT RIGHTS AND MATTERS ARISING IN CHAPTERS. A right, or the privilege thereof, can only be claimed to the extent that it can be demonstrated to have been legitimately granted. V. Finally, note this: Apostolic Letters of collation do not alter the status and condition of benefices, which are preferred by their foundation, unless it is clearly stated in the words of the Letters that the Roman Pontiff intended to alter those conditions, and those words do not correspond to the foundation.

ON MARRIAGE. July 18, 1868. Causes for marriage nullity, stemming from the chapter of impotence, are far more frequent than others of the same name. However, decency often prevents such causes from being made public, although these chronicles, being written in Latin, are intended only for ecclesiastical men, who, by virtue of their offices, ought to be knowledgeable about matters concerning souls. Nevertheless, so that we do not entirely omit such causes, we will offer some outlines, rather than narratives, of them, whenever it is convenient, so that norms may be derived from them, by which these causes ought to be treated. We have already given the Instruction of the Sacred Congregation in treating such causes in Vol. I, page 439.

SUMMARY OF THE CASE. The marriage between Caia, who was seventeen years old, and Livius, who was a decade older, was lawfully entered into. Both were commended for their virtuous lives, and they had greatly loved each other. For a period of ten years, the spouses maintained a private life together; then, quarrels and disagreements arose, and the wife requested to return to her father's house, asserting that she could never reconcile herself with her husband. The cause of this was as follows: For two full years, the spouses loved each other as they had at the beginning of their marriage, and the young woman often gave evidence of her love, especially during a prolonged illness of her husband.

[*Latin ed. p. 191*]

MARRIAGES. 191 But since the man was unable to consummate the marriage, Caia, troubled by inconveniences and discomforts, was afflicted by a moral illness, although, as she herself asserted, she was unaware of the marital matter. Finally, she fell into a deep sorrow, which increased to such an extent that she secretly took poisonous potions. Although her sister, aware of the facts, happened to witness this folly, she was unable to prevent the potion from harming her. Therefore, she became ill, and her strength gradually began to fail. The father, with the consent of the man, took his daughter to another city, so that by a change of scenery and

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air, she might regain her former health. However, this was not enough for the father's concern, but he went even further and took her to a new city, and asked his daughter to consult with the best doctor, A., and to obey his instructions, believing that he could restore his daughter's health. The doctor, visiting Caia, found her still endowed with perfect virginity. Her father, moved by this novelty, led her to believe that the young woman should tell him everything, and he assured her that, if this marriage was considered valid, it would certainly be dissolved for the sake of the daughter, with the intervention of pontifical authority. Having heard these things, Caia is said to have regained her strength and recovered with great joy. But when these things became known to the man, he went to the Ordinary to seek counsel in this grave matter. The Ordinary spoke to Caia several times, urging her to reconcile with her husband, so that if they could not live together as husband and wife, they might live together as brother and sister under the same roof. But these admonitions were in vain; for Caia, bearing the man with displeasure, replied that she had suffered enough torments and illnesses, and that she was determined. Then the Ordinary suggested a plan, which was accepted by both parties, namely, that the man should submit to an examination by two experts in the art of medicine; one of whom would be chosen by himself, and the other by Caia: and if these experts judged Livius to be capable, Caia would return to her husband; but if the matter was doubtful, a further test would be carried out for fifteen more days; but if, beyond all doubt, they declared the man to be impotent, then, by unanimous consent, the two spouses would petition the Most Holy Father for a dispensation regarding the marriage that had been contracted but not consummated.

[*Latin ed. p. 192*]

192. MARRIAGES. Therefore, the man, having been subjected to this examination, was judged by the experts to suffer from a permanent and incurable impotence. Moreover, Livius consulted another expert, who arrived at the same judgment. After hearing both parties and conducting a brief inquiry, the Ordinary sent all the documents to Rome, recommending the prayers of the spouses. According to the established custom, the Holy See, through the Sacred Congregation of the Council, ordered that the Ordinary should conduct a canonical process, observing the proper form of the Constitution of Pope Benedict XIV, and, with God's mercy, following the instructions provided, and that he should inform the Holy See of the results in due time, and transmit the process itself to the Sacred Congregation in an authentic form, etc. Therefore, in accordance with the Constitution of Pope Benedict and the sacred canons, the spouses were subjected to a judicial examination, provided that they had confessed under oath that the marriage remained valid. This testimony is what is called in law the "seventh seal" (1), or fourteen sworn witnesses, seven from the

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family of the husband and seven from the family of the wife, who testified in support of the spouses' confession. However, five experts appointed by the Curia judged that there were no signs of impotence in the man's body, and affirmed that he could, without causing any particular harm to the woman, render the woman fertile. After the proceedings were completed and sent to Rome, the Ordinary requested that, in view of the poverty of the spouses, the case be treated economically. The Holy See graciously granted this request, ordering that the case be presented before the Sacred Congregation of the Council for an economic and discreet judgment, with the opinions of theologians and canonists, and with the observations of the Defender of the Faith ex officio, as is customary in such cases before the Holy See.

A SYNOPTIC DISCUSSION:

OPINION OF THE CANONIST. — After a historical exposition of the case, the canonist observed that the present question could be considered under two aspects, namely, under the aspect of validity, that is, whether the marriage should be declared valid or, rather, invalid, based on the grounds of impotence. For it is certain in law that impotence,

[*Latin ed. p. 193*]

MARRIAGES. 193. To render a marriage null, it must be absolute and perpetual; or, under the consideration of a dispensation from marriage, provided that the marriage is validly contracted. However, since in the present matter the formula for questioning was proposed which concerned only the second question, and the first question was omitted, the Canonist discussed the second question. He stated that, in order to obtain the requested dispensation, it must be proven that the marriage remained valid, and that the causes for the dispensation are present. First, according to the Authors, Sánchez, *De Impedimentis Matrimonii*, disp. 108, n. 1 and 109, it must be proven through a three-year trial period, with the assistance of a medical expert and an examination of the woman; and if the man denies, the testimony of seven witnesses from his side is not required, Sánchez, *loc. cit.* However, since the three-year trial period has fallen into disuse in these cases, and as is commonly said, has been abandoned by the court, the testimony of the medical expert and the aforementioned examination are sufficient. However, in the present matter, the three-year trial period was also available from past years. Furthermore, both spouses had affirmed in court that the marriage remained valid; fourteen witnesses had testified that the spouses were entirely trustworthy, and that they knew that the marriage remained valid from the doctors, from the father of the woman, and from Livio himself; and honest matrons and midwives were in agreement concerning the perfect virginity of the woman; and since all of these

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things were confirmed under oath, the Canonist considered the first point to be fully proven. However, the Canonist rejected the difficulty raised by the testimony of five experts, who had been appointed by the court to examine the man, on the grounds that, in the present case, no judgment was being rendered on the validity or nullity of the marriage; and that the lack of consummation could have another cause; and especially, that in men, impotence often occurs, concerning which Cocchi, in *Disputationes Physicae Analhomicae*, § 4, with others, states: "Although the external configuration may be blameless, it does not exclude an internal defect in the structure; nor does it prevent us from saying that the external configuration appears healthy, while the internal part is defective." Turning to the second point, that is, the causes for the dispensation, the Canonist noted that the first cause for dispensation is found in the *Acta*, vol. IV, fasc. XL, 13.

[*Latin ed. p. 194*]

Regarding MARRIAGES. The very doubt concerning the husband's prior, absolute, and perpetual power, about which three former extra-judicial experts had testified, was raised, and this doubt was seen to be connected with the doubt concerning the validity of the marriage. Moreover, among these three experts was the family physician of Livius, who had cared for him for twenty-nine years. However, such a doubt could be the cause of a dispensation, especially if a serious discord of minds is present, as several examples, which it is expedient to indicate here, demonstrate. In a case concerning a marriage, discussed on April 24, 1859, a woman was found to be perfect. Although the experts judged the man to be healthy, nevertheless, since the woman's perfection raised doubts about the husband's relative impotence, and since there was evidence of discord and alienation of affections, regarding the doubt concerning the validity of the marriage, and another concerning a dispensation, the Sacred Congregation responded: "To the first, provision will be made in the second; to the eleventh, affirmatively, with the prohibition that the man not proceed to other marriages without first consulting the Sacred Congregation." Also, in another case concerning a marriage, discussed on September 23, 1855, in which the experts distinguished between frigidity and impotence, and judged that frigidity was present in the man's examination; but they denied the existence of impotence. Since the woman was found to be perfect, and the husband's impotence remained uncertain, the court ordered the spouses to undergo a three-year trial. However, when the case was brought before the Holy See, and since there were serious disagreements between the spouses, and the danger of incontinence threatened the woman, regarding the doubt: "Is it necessary to consult with the Most Holy [Father] for a solution?" concerning a marriage that was ratified but not consummated, the Sacred Congregation responded: "Affirmatively, with the prohibition that the man not proceed

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to other marriages without first consulting the Sacred Congregation." Also, in a case concerning a marriage, discussed on June 26, 1858, which is closer to our case. It concerned a woman who was found to be endowed with perfect virginity by midwives; however, the experts judged the man to be vigorous, or, if any impotence were possible, they declared it to be only relative, arising rather from a weakness of the nerves. The court, which first heard the case, pronounced: "There is nothing to indicate either absolute or relative impotence, and therefore, a three-year trial was ordered." When the case came before the Holy See, nothing was presented for a dispensation except the doubt of impotence, derived from the wife's virginity, and the alienation of affections. However, the Sacred Congregation, regarding the doubt...

[*Latin ed. p. 195*]

MATRIMONII. He wrote 195 times concerning nullity: It will be provided in the second [section]; he wrote concerning a dispensation: Affirmative. Indeed, in more difficult cases, in which the examination of the woman was lacking, concerning whose integrity or lack of consummation of the marriage could be ascertained from other circumstances, due to a grave alienation of affections and the danger of incontinence, the Sacred Congregation judged it advisable to consult with the Most Reverend [authority] for a solution, as in the case of a marriage of March 28, 1857, and June 26, 1858, in which a noble man had experienced his wife constantly resisting marital duties, and she had begun to bear him greatly; they had spent six months living separately in the same house; a physical examination of the woman could not be carried out, because she stubbornly refused. Furthermore, concerning the cases which, in our matter, militated for a solution, the Ordinary described them accurately: "The causes which favor obtaining the grace from the part of the Orators are many. First, both spouses are young, the wife especially, who is twenty-one years of age, and it would be most difficult for her to restrain herself and lead a chaste life if she were to live with a husband who is still young. Moreover, this kind of union would become so difficult due to the vehement repugnance felt by the wife, which she herself declares to be insurmountable against the husband, who, although good, possesses a cold character, and has never endeavored to foster the wife's affection in due measure. Furthermore, their union would be dangerous, because it would be feared that the wife, distressed by her condition, would again resort to forbidden things in order to shorten her life. If, moreover, the unhappy state of the wife is considered, who, ignorant of the marital state, surrendered all power of her body to her husband, the pain of the wife's father, who unwillingly consented to the marriage of his daughter with the aforementioned husband, and who still suffers greatly because of the uncertain condition of the same, since the husband... has gone to another [woman] with the intention of remaining there so

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that he would not be exposed to reproach, as he himself stated; if, finally, in a small town, the opinions of citizens were considered, who, having already heard the assertion of the husband's impotence from the doctors, were persuaded... the prayers of the Orators should not be rejected." After these things, we omit the vote of the Theologian, who, with the strength of arguments, came to the same opinion.

[*Latin ed. p. 196*]

196. MARRIAGES. OBSERVATIONS OF THE DEFENSOR. — The Defensor, charged with the office of defending the validity of the marriage bond, observed two things particularly favorable to the marriage: first, that the man was to be judged as capable; for the most expert experts appointed by the Curia judged him capable without doubt, at least of rendering the woman fertile without injury; which, if previously three experts had judged otherwise, the Defensor wrote that this occurred due to the difference of time, so that the impotent man appeared capable at that time due to external and accidental causes, by which causes removed, he appeared to be healthy and capable. With these things established, he did not conclude that the marriage remained valid, since the integrity of the woman does not always signify a marriage that is not consummated; therefore, while there remained a doubt about the consummation of the marriage, the marriage could not be declared dissolved; and therefore, he considered the investigation into the causes of the dispensation to be superfluous; but he indicated that these causes were lacking in the present case, since it concerned spouses who had always pursued each other with love, and therefore the last movement of the woman was to be restrained by authority, so that she might remain within the bounds of her office as a wife. "Should consultation be sought from the Most Holy Congregation regarding a dispensation for a marriage that is valid but not consummated in this case?"

RESOLUTION. — The Most Holy Congregation of the Council, after discussing the case on July 18, 1868, decided: Affirmative, forbidding the man from entering into other marriages without the consultation of the Most Holy Congregation.

FROM WHICH YOU MAY GATHER: I. That, having set aside the question regarding the nullity of the marriage due to impotence, in order to declare a marriage valid, it must be demonstrated that two things are present: namely, that the marriage remained valid, and that the causes for dissolving it do not concur. II. That, first, this is usually demonstrated by the integrity found in the woman and the indications of impotence in the man, along with the testimony of relatives or neighbors, who, with their credibility, confirm this (1). (i) It does not seem that the Most Holy Congregation places great value on the teachings in such matters, whether for this reason

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or especially for others, given that they are of advanced age.

[*Latin ed. p. 197*]

OF MARRIAGES. 197 I I I. The causes for dissolving a marriage are often doubted to be valid, arising from the impotence of one of the spouses, and from a grave disagreement of minds. Moreover, experts in our medical art declare that it is possible for a marriage to be consummated even if the woman remains a virgin. Perhaps you will say: granted this possibility, it cannot be affirmed that the marriage has remained only valid. I answer you: the criterion for judging whether a marriage has been consummated is taken from the words: "one flesh." But who among the experts in medical art can define what is sufficient for spouses to be considered as "one flesh" in a theological sense? I answer: it has been the constant practice of the Church to consider a marriage as not consummated when, from added circumstances, whether physical or moral, it appears that the marriage could not have been perfected according to the common order of nature; therefore, without a physical examination, the Church has admitted even a three-year trial as a physical and sufficient argument of proof. Now, since this has been the constant practice of the Church, the same must be considered in interpreting the theological sense of those words: "one flesh."

[*Latin ed. p. 198*]

198. LICENSES FOR MARRIAGE. On February 1, 1868. Summary of the case. In the year 1861, this matrimonial cause, arising from the issue of impotence, was presented concerning a certain wife and her husband, who had already had seven children from a previous wife, and the following questions were proposed to the Sacred Congregation of the Council: I. "Does nullity of marriage exist in this case? And, to the extent that the answer is negative: II. Should the Most Holy Fathers be consulted regarding a dispensation for marriage, already consummated?" The Sacred Congregation responded: To I. This will be determined in the second instance; to II. "Affirmatively, forbidding (to the man, N.) from entering into any other marriage unless previously considered by the Sacred Congregation." And in the Congregation on April 17 of the following year, the resolution was confirmed by a Rescript: In the decisions, and furthermore: and the Most Holy Lord, following the advice of the Sacred Congregation, dissolved the marriage and ordered that Apostolic Letters in the form of a Brief be issued. However, when the man subsequently renewed his request to be able to marry another woman, the Ordinary was asked to, with due observance of the form of the Benedictine Constitution, and with God's mercy, report whether, through the testimony of medical experts, the man's impotence persisted. The Ordinary, after conducting a process in his court regarding the current state of the man, and after receiving the reports of the doctors, and after completing all necessary inquiries, submitted all the proceedings

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to the Sacred Congregation, considering that nothing should be added or subtracted from the opinions of the experts regarding the asserted impotence of the man. Three experts, appointed by the court, unanimously declared that the man's impotence, based on many indications found in the man, did not exclude the possibility of only temporary impotence, derived from moral causes and disturbances of the nerves.

OBSERVATIONS FROM THE OFFICE. — Among other things that were included as a matter of course, the following are worthy of note in relation to our case: namely, that it is customary in Rescripts concerning such licenses, to include the clause: "provided that the widow..." as in the case of this type, presented on April 23, 1842, and also in another case on September 24, 1864; and that, indeed, there are some exceptions.

[*Latin ed. p. 199*]

MARRIAGE PERMITS. 199. With pious considerations, and after new deliberations, the Holy Congregation omitted that limitation, as if it had been done on the 12th of November in the year 1855, by order of the Most Holy Father, with a certain man, through the following Rescript: Write to the Bishop, granting favor for the relaxation of the state of celibacy (N. N.), observing, however, what must be observed concerning such relaxations. RESCRIPT. — The Holy Congregation of the Council, after new deliberations on the 1st of February 1868, judged it fitting to respond: Affirmative, concerning the widow. REGARDING ADMISSION AND DISMISSION. 18th of July, 1868. A pious and wealthy widow, Mark's widow, in the year 1647, by her Will, founded a chaplaincy, purely secular, removable at will, establishing this law, that from her goods, said chaplaincy should be established, to which a removable chaplain should be chosen by the Lord of Arcangelo and by Angel of Mark, and by their heirs and successors, excluding women from being chosen if men were available; but if no men were available, women also could be named. Arcangelo was the nephew of the pious widow, and Angel of Mark was the brother of the same woman. What happened concerning the nominations for the chaplaincy from the year 1647 until the year 1794 is obscure. However, it appears that the family of Arcangelo never exercised the right of patronage, and no trace of that family has been found for two centuries. But in that very year, 1794, Agata of Mark, the only survivor of the family of Mark, by her Will, bequeathed said right of patronage, together with all her inheritance, to her daughter Francisca, married to Camillo M., and to her other daughter, Mary, married to Joseph V., besides the dowry, etc., a certain property, so that nothing else could be claimed from her except the designated goods. Summary of the case.

[*Latin ed. p. 200*]

200. OF THE TRANSFER AND LOSS OF POSSESSION. Francisca, by

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hereditary right, maintained possession of the Chapel, bequeathing it to her son, Xaverius M., as she expressly stipulated in her will, provided that Xaverius followed the ecclesiastical path; he subsequently died in the year 1800. From that year, the Chapel was held by another son of Francisca, Julian M. However, in the year 1817, Julian relinquished the Chapel, and is said to have designated his son, Camillus Clericum, as his successor. Camillus, through public acts, secured true and real possession of the Chapel, according to the will of his paternal grandfather. Later, Camillus married and had three sons, and retained the Chapel, as his father had done before him. In the year 1813, Camillus M. was dispossessed of the Chapel; for, descendants of another daughter of Marco, named Maria, who, as I said, had married Joseph V., arose. These descendants petitioned the episcopal court, seeking possession of the Chapel's assets, demanding the expulsion of Camillus M. as an illegitimate possessor and ordering him to restore the fruits [of the Chapel]. After a contested legal battle, three descendants of V. presented three claims for Joseph V., who also presented a claim in his own name, adding to the three claims made on his behalf. After examining the rights of the parties, the Vicar General rendered a judgment, in which he granted the request of the descendants of V., favoring Joseph V., and ordered the expulsion of Camillus M., reserving the fruits to be settled in a separate legal proceeding. An appeal was lodged by Camillus, and the case was brought before the Sacred Congregation. A SYNOPTIC ACCOUNT OF THE DISPUTE. CAMILLUS M.'S DEFENSE. Camillus's advocate challenged the validity of the judgment issued by the court at the outset, citing irregularities in the proceedings; however, this point was overlooked, and the discussion proceeded to the merits of the case, addressing the issues of possession and claim (1). Regarding the judgment of possession, the principle was established, based on a well-known passage from Cap. Consultationibus, concerning the right of patronage, where it is written: "If a cleric has been appointed by an ordinary judge to present the candidate for the patronage of a church, and afterwards the right of patronage is established in court for another, the appointed cleric should not be removed from his position because of this, if the appointment occurred at the time of the presentation." (1) This provides an opportunity to discuss the judgment of possession and claim in Fol. H, page 007.

[*Latin ed. p. 201*]

ON ADMISSION AND REMOVAL. 201. He who presented him possessed the patronage of the church, so that no prejudice would be created for him who was rightfully entitled to it. But if he did not possess it, but was only believed to be the patron, he could be removed from that church; thus argued the Advocate. Julianus, upon the death of his brother, possessed the chaplaincy, and abandoned it, and gave it to his son Camillus, who, through public records, obtained possession of the chaplaincy and

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has retained it for a long period of time. These are all considered hereditary patrons, and they have possessed the chaplaincy, both in name and in fact. Therefore, even if those descended from another line could demonstrate that the patronage also belonged to them, the present chaplain, Camillus, could not be removed from his possession. Furthermore, even if he were not appointed by the father, he could defend himself in possession by his own right. The Advocate demonstrated this by citing the doctrine that is usually presented when someone is passively called to a benefice, but is not formally named: in such a case, it is held that the passively called person should be admitted to the benefice by the will of the founder, who is considered to have called and named him, as Pitonius states in *De Controversiis Patrum*, allegation 1, number 4. And the Advocate embellished all of these points with the opinions of various authors, considered from one aspect or another. Turning to the question in the petition, and quoting the words of the founding widow, he argued that the patronage was solely hereditary, and not mixed. For he maintained that the words "heirs and successors" implied that the patronage was connected only with inheritance, so that the successors would be patrons, but successors to the goods. Moreover, in the same founding document, the words "forever," "in perpetuity," which are usually used to indicate a hereditary or mixed patronage, were absent; the words "family," "agnation," "descent," etc., were also absent. He argued that the word "and," connecting "heirs and successors," was not a connective, but an amplifying one, so that not only successors who were related by blood should be understood, but also those who succeeded for any other reason. He sought to confirm these points with various conjectures drawn from the will of the foundress. To remove any difficulty, as if the Testatrix desired to preserve agnatic ties, he observed that the Testatrix...

[*Latin ed. p. 202*]

202 OF IMPOSITION AND REMOVAL. The right of patronage is not limited to a brother, but also to a simple nephew; women are indeed excluded, but if there are male relatives, those who do not maintain agnatic kinship, as Saint Rota argues in the case of the Benefice of Saint Lawrence in Damasus, on February 6, 1668, before Caccia: "and it is all the easier, considering" the calling of women after men; for since they do not maintain agnatic kinship, such a calling more easily suggests that the right of patronage is not agnatic, but rather hereditary. Also, Gratian, Disputations, forensic discussion 578, number 6: "Since, especially from many presentations presented in the records, which have had the effect of being granted, it appears that patrons have presented heirs, and that women have also been admitted to presenting together with their descendants, it follows that the right of patronage is hereditary." Therefore, in the present case, since another family has become extinct, the right of patronage has passed to the family of Marco, and since Agata di Marco, in the year 1794, was

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the only and sole descendant of that family, she was able to dispose of the right of patronage with her inheritance, as she actually did, leaving it to her daughter Francesca, who was married to Camillo M., and therefore she ordered that Xavier, her son previously named by her, should maintain possession of the Chapel if he persevered in ecclesiastical service; and to the other daughter, she left only a part of the inheritance, so that she could claim nothing more than the designated property. Indeed, even in the hypothesis of a gentile or mixed right of patronage, if the descendants are extinct, the right of patronage will pass to the last surviving member, becoming hereditary according to the received teaching of Ancharani. And Agata was the only survivor of the family of Marco, and therefore, through her will, the right of patronage passed to her heirs. Even more so, since for a long interval of years, more than sufficient for prescription, the family of M. has exercised the right of patronage solely by hereditary right, and the opposing party V. has never contradicted this. However, if it were assumed that the right of patronage passed to both of Agata's daughters equally, and therefore it should be considered as a mixed lineal right, it could be argued that the right of patronage was divided into two lines, which came not to individuals but to lineages, so that a single voice represented the family of M.

[*Latin ed. p. 203*]

OF ADMISSION AND EXPULSION. 203 Furthermore, in the case of family Y, no consideration is given to the number of individuals from each family, as can be seen from Clementine, *Plures*, on the Right of Patronage, Cardinal De Luca, *Discipline* 61, on the Right of Patronage, and other sources. From these, it is concluded that, even if there were one hundred individuals naming a patron from family V, they could only constitute one vote; and that Camillus M., even if he were the only one, could constitute the other vote, representing his family, and therefore could not be removed from his possession when equal forces are in conflict. DEFENSE OF THE DESCENDANTS OF V. — The advocate for the descendants of family Y argued that the right of patronage is not hereditary, but mixed, so that those who are legitimate heirs have the right to name a patron, even though they do not actually possess the inheritance; and he demonstrated this from the words: "heirs and successors." He also confirmed this by the fact that the Testator called the males as long as they were present, which he claimed was to promote agnatic succession. Even more so, he argued, that women were invited to name a patron when the male line failed, which indicates a mixed nature of the right of patronage, as is widely held by the Sacred Rota, and specifically in Decree 248, § 2, *Coram Panario*. In the strict sense, as it is commonly called, of the response, he argued that the Testator had indeed called two families, but jointly, not separately; and that in this case, since the right of patronage is not divided, it never becomes hereditary,

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according to what the Sacred Rota states in *Calven. Beneficii coram Elephantulio* on February 16, 1753, number 24: "They write, 'We do not see how the gentile or mixed quality can be challenged.'" The *praesidium* maintained that, at least for the two votes initially left to Fabio and Francis, it had become hereditary in the case of Gaspare Ronconio, the last of his descendants. However, this assumption would be correct only if the founder had initially distinguished between the lines of the designated patrons and their descendants, according to the type of distinction discussed by the cited authorities. On the other hand, if, without making any distinction between the lines, the founder himself, in words and deeds, joined not only the three first branches, but also their heirs and descendants, then, in these terms, all are considered as one body, and are called as if they were a college, so that, if the descendants of one or the other branch are removed, the right of patronage, by the right of *a crescendi* or of not decreasing, coalesces entirely into that of the remaining branch.

[*Latin ed. p. 204*]

204 CONCERNING THE TRANSFER AND REVOCATION OF PATRONAGE. "By those who remain of the body of those called together in blood." Furthermore, the Advocate considered that two families had, from the beginning, been legitimately called to this office, and that their heirs and successors were therefore entitled to the full right of patronage; and that this right could not have become hereditary through Agata, the last surviving member of the family of Marco, because a mixed right of patronage does not require the actual inheritance by all heirs, but only those who succeed in the right; nor do the descendants of V. enjoy the force of Agata's will in the matter of patronage, but rather possess it by their own right, by the will of the foundress. Nor was prescription applicable in the present case, since the family of V. had not named anyone only once; for Julius M. was merely the possessor of the chapel, without any designation. Therefore, it was argued that only one nomination remained, by virtue of which Camillus possessed the chapel, a nomination which the Advocate refuted for several reasons. After these and other arguments were presented, the purpose was to resolve the doubt: "Whether and how the judgment of the episcopal court should be confirmed or rejected in this case?" RESOLUTION. — The Sacred Congregation, after discussing the matter in its deliberations held on July 18, 1868, decided that the judgment should be confirmed, and furthermore: I. A lay chapel, which, by the terms of its foundation, requires at least a clerical character, cannot be possessed by a cleric who has abandoned the clerical state and taken a wife. II. Nor can a long period of possession suffice for it, although peaceful possession is suitable for supplementing the deficiency of the title. III. In the present case, the right of patronage was a mixed right, which extended to all descendants who were, at least, legitimate heirs of the originally called

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families. IV. Therefore, a legitimately made nomination by the patrons should have excluded the chaplain, the possessor of the chapel, from possessing it, and a new nomination was sufficient.

[*Latin ed. p. 205*]

205 FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS: CONCERNING THE DECREES OF VISITATIONS AND RETENTIONS. Dated 18 September 1868. Summary of the case. A prebend with the care of souls exists in the town of N., which is burdened with certain annual Masses. To this prebend were subsequently added seven pious endowments for Masses to be celebrated annually by the archpriest. These pious endowments, which were gradually established, consisted almost entirely of a small sum of money, which was paid from the church funds to the archpriest, so that he might receive the annual profits for the celebration of the aforementioned Masses; in reality, the money from each endowment was invested in productive holdings. It is not certain whether mortgages were registered for each of the aforementioned holdings as security for the aforementioned rents. When the aforementioned archpriest's prebend became vacant, Titius was canonically appointed as his substitute, and he held it for nine years. After this time had elapsed, he resigned it in the hands of the Roman Pontiff, with the reservation of a double pension, that is, with the reservation of 20 scudi on the aforementioned prebend, and 24 scudi on a certain parish. This resignation with the aforementioned pensions was accepted, and these pensions, with the authority of the episcopal curia, were assigned to Titius in place of the sacred patrimony, since in that diocese there is sufficient annual income of 36 scudi to constitute the sacred patrimony. Afterwards, Titius requested from the Bishop that he might be transferred to another diocese, so that he might inquire about some office or benefice. But the Bishop did not grant him leave until it was ascertained that the obligations of the archpriest had been fulfilled. Titius, without delay, promised that he would, at his own expense, rectify whatever had been done incorrectly by him in the aforementioned office which he had relinquished; and thus he went to another diocese to accept a new parochial office.

[*Latin ed. p. 206*]

206 CONCERNING THE DECREE OF THE VISITATION. The Bishop, during the following year's visitation, discovered that, from the Mass obligations which were to be fulfilled by Titius, 532 remained unfulfilled; therefore, he decreed that Titius should, within three months, pay the alms for those same Masses at the episcopal chancery, or present just and legitimate reasons for the Masses not having been celebrated. Furthermore, the Bishop informed Titius that he would impose a sequestration on his pension if, within one month, he did not present proof of the celebrations.

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Titius excused himself, alleging delay or the poverty of those who were obligated to pay for the celebrations; and also, the lack of legal titles to compel the debtors in court to pay. But the Bishop did not accept these reasons, since they seemed to be rather causes for obtaining some remission from the Holy See, and not for annulling the obligation. Finally, Titius appealed to the Holy Congregation, and then insisted that the matter be legally defined. In a new report, the Bishop stated that, upon further investigation, 386 Masses had been found to have not been celebrated.

A SYNOPTIC SUMMARY OF THE ARGUMENT.

TITUS' DEFENSE. — Titius, through his Defender, argued that he was not obligated to fulfill those omitted celebrations, since there was neither a certain nor a probable solution for the payment of the alms; nor could his pension be sequestered, since that pension constituted his sacred patrimony, and he had no other means at present from which he could suitably live, since he had been exiled from the new diocese for just causes recognized by the Bishop, so that he now resided in Rome, having been recommended by the same Bishop. As the first point of this matter, Titius' Advocate pointed out that, according to Amostazo, *De Causis Piis*, I, 2, chapter 7, an anniversary Mass consists in Masses said and applied each year according to the will of the founder, with a certain return or a stipulated salary. From this definition, he deduced that the essential characteristic of an anniversary is the certainty of the return or salary established by the founder for the celebrant; and that no worker is obligated to provide a certain, positive, and useful service if there is uncertainty about the compensation he will receive from the one to whom he provides the useful service.

[*Latin ed. p. 207*]

AND OF RETENTION. 207 For it is fitting that a worker should receive his wages. But the priest is a worker in the Lord's vineyard, and he can demand sustenance not so much because of the work he has performed, but because of the labor he has expended. Furthermore, the Orator explained in this manner: Anniversaries of Masses are founded in two ways; that is, either the founder leaves funds to a pious institution, so that Masses may be celebrated from the revenues, or he instructs his universal heirs to have a certain number of Masses celebrated each year with a designated fund. In the first case, the pious institution or church acquires possession of the funds and becomes the owner, and therefore the church, and through it the priest, enjoys the use of the annual sum and provides sufficiently for the celebration of Masses. In the second case, the universal heir, as the possessor of the funds, is burdened with the pious obligation of the anniversary, which he must fulfill by paying a certain and determined alms

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to the celebrant. Amostazo indicates this distinction in the aforementioned passage, 71, 6: "Anniversaries are founded in two ways, namely, when certain stable goods are left, from whose revenues or fruits the Masses are to be celebrated each year by some patron. Otherwise, when a fund or certain stable goods are granted or left to someone with the obligation of having Masses celebrated each year. And with regard to the first, it should be noted that sometimes goods are granted to a church or monastery with the obligation of having Masses celebrated each year. Furthermore, in the former case, the Orator held that the church is obligated to fulfill the obligations; and that it cannot oppose uncertainty of revenues, or a lesser abundance of fruits, or the poverty of the heirs, since it perpetually possesses the funds and enjoys the fruits thereof to fulfill the obligations. And it belongs to the Bishop, as the executor of the pious will, to compel the priest, as the possessor, to fulfill the obligations during a canonical visitation, and to proceed to the sequestration of the fruits. But if the Masses are not celebrated for this reason, because the revenues of the funds which the church or the priest possesses by title of anniversaries have been diminished, then it has been decreed by the Council of Trent, session 25, chapter 4, concerning Reforms, that a reduction in the number of Masses may be requested from the Holy See, provided that the diminution of revenues is permanent; on this matter, Pax Jordanus teaches in *Lueubrat*, book 4, title 1, on Sacrifice, Mass, number 395: "As a reduction..."

[*Latin ed. p. 208*]

208 CONCERNING THE DECREE OF THE HOLY VISITATION: It cannot be done, when the diminution of the fruits is not permanent, but temporary; for example, if from the fruits of a certain estate thirty Masses are celebrated annually, although this year those fruits are not received from it, but are received from others, and indeed, are abundant, then the barren years will be compensated by the fruitful ones; but one must not proceed to a reduction. But if the damage is permanent, because the estate, due to deterioration, no longer yields so many fruits, or if the alms for Masses are greatly diminished, then it is necessary to proceed to a reduction. Indeed, the Doctors teach the following: Pelizzarius, *Resolutiones*, title 2, tractate 6, § 1: "One might ask whether Regulars, if an estate is lost through no fault of the possessor, are still bound to celebrate Masses from such a legacy? I answer that they are not bound, but can entirely omit the celebration of such Masses, and indeed, by their own authority, because the benefice is given for the sake of the office, and therefore, when the benefice ceases, it is fitting that the office also cease." Also, Vienstner, *Institutiones Canonicae*, I, 2: "And indeed, if, for the celebration of certain Masses, the Church, or the monastery, or the Prelate and Chapter or Convent, is entirely at fault, or if those things have been taken away or diverted from them, and therefore, it is certainly known that nothing is received from them, then the Church or

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the monastery should be released from the obligation to celebrate them, so that anniversary Masses may be omitted; because when the benefice ceases, it is fitting that the office also cease." Another thing must be said when the foundation of the anniversary is made in the second way mentioned above. For in this case, the anniversary is a pious legacy which the heirs are bound to fulfill each year, and the possessors of hereditary estates, who are to take a certain produce from it, and to give it to the priest designated by the testator for the time designated: in which case, the priest designated, since he does not possess the estates, is a worker who renders his service for the soul of the deceased, when the heir, who is bound, provides a safe and prompt compensation, or an alms determined by the Curia or the testator, concerning which Amostazo, in the aforementioned place, n. 18: "Another way of establishing an anniversary is when goods are left with the obligation of celebrating Masses each year for his soul or for others: these goods are profane and secular, and they remain, because they have nothing but the obligation of..."

[*Latin ed. p. 209*]

AND OF RETENTION. I • ′ 1 • j I i i 209 » Of Masses, which must always remain valid. » Therefore, if these goods remain the property of the laity, and they continue to enjoy their use, it is unjust to claim that the priest causes harm to the testator, whenever the priest does not celebrate Masses, whether because he does not have a certain means of compensation through the prescribed alms, or because the heirs themselves dispute the obligation to pay, or because the heirs themselves, having been reduced to poverty, are unable to pay, or because the property in Fondi has been alienated to others, or because it has not been seized by any mortgage for the security of the annual payment. For in these cases, the fault is not of the priest who does not celebrate, but of the heir who does not fulfill the duty prescribed by the testator. However, the worker, who does not deny the contract, can rightly abstain from performing the work if the compensation is not certain; concerning which, Voet, in the Pandects, title on leases, n. 7, states: "A price must be established for the use or the work, and it must be either certain from the beginning or determined afterward." However, the Orator observed, in order that the pious will of the deceased should not be defrauded, it is the duty of the Bishop, who is the executor of pious wills, to proceed, not against the priest, but against the heirs, in order to compel them to fulfill the pious obligations; concerning which, Pax Jordanus, in the aforementioned place, n. ii, states: "When an obligation has been imposed upon the heir to celebrate so many Masses annually, especially if other obligations have also been imposed upon him, such as giving alms to the poor, or something similar, then the heir must be compelled, and the inheritance, if it exists, must be made to bear the burden; but not in moderation, because the Council considered the churches and their well-being, and also

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the comfort of the deceased; but not the heirs, as is gathered from Cardinal Bellarmine in his work, "Decretales," cap. 4, in Trent (Trento). "Indeed, it has been considered by the Church that, over time, the curias [diocesan courts] should be vigilant in protecting the pious obligations with real security. It is the duty of the curia to possess the titles of the pious wills, to record the annual Masses in the register according to the Council of Rome under Benedict XIII, to provide a means of redress against the heirs, and to protect the pious legacy by inscribing it with a mortgage in the public records. The Orator applied these points of law to the case, saying that the Bishop had acted according to the established norms.

[*Latin ed. p. 210*]

2f0 DECREE! The Most Reverend [Father] stated that if the matter concerned anniversaries established in only one way; however, the aforementioned Advocate maintained that the matter concerned anniversaries established in a second way, and he continued his defense, indicating the difficulties in obtaining a solution from the legatees; difficulties which both his predecessors and the present Archpriest had experienced, so that neither intended to celebrate the anniversary Masses. Turning to the second point of the question, the Advocate observed that a sequestration could not be imposed on the goods of [Titus], firstly because there was no certain obligation to celebrate those Masses, and secondly because a sequestration could not be imposed on the goods of the sacred patrimony. To demonstrate this second reason, he recalled the Tridentine decree, Cap. 2 of the session on Reforms, as well as the Encyclicals of Innocent X, dated March 3, 1679, which Ferraris cites in his *Bibliotheca Canonica* under the word "Patrimonium Sacrum," no. 4, in which it was stated: "A sale, mortgage, or extinction of the patrimony or pension following a promotion is invalid, because that word of the Council, 'Nullatenus possint,' implies the nullity of the act by law itself. Nor can the goods of the patrimony be burdened, so that if, by chance, a debt must be paid, no execution can be carried out except on that part of the goods which remains after the needs of the clergy have been met." This is in accordance with Barbosa and other authors. The Advocate further observed that the pension, no. 44, was so meager, especially for the elderly Priest [Titus], and given that he was exiled from his place of residence, that it could in no way suffice for his support.

OBSERVATIONS FROM THE OFFICE. From the office, in the opposite direction, these are the observations: admitting the distinction of the foundation of anniversaries described above, it was observed that the Masses in question belonged more to the first type of legatee than to the second. It was shown that each Mass was either a legacy established on stable goods granted by the founders to the archpriestal benefice, or on money paid and invested by the Archpriest at the time in productive lands in Uzes, so that the archpriestal church was the legatee, obligated to celebrate the

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Masses. That church, by accepting the legacies and donations, had, as it were, contracted an obligation; and just as the founder or heir, by tradition of money or property, had fulfilled his obligation completely, so too had he acquired the absolute and perpetual right to impose burdens on that part of the church's property.

[*Latin ed. p. 211*]

AND OF RETENTION. 2M The condition would be fulfilled which, once dominion over the bequeathed or donated property is upon, would also entail exclusive administration, so that it would assume both the benefit and the detriment, or the risk. On this matter, Amostazo de Causis piis I. 2, c. 8, n. 53 states: "If the property or sum perishes before the property is purchased, then the heir is not bound to anything, because he was bound to nothing other than to provide the sum." And n. 53: "The heir is only a debtor of that species, and when he has already delivered it to the legatee, he is released, and he perishes together with the danger of the legatee." Therefore, even if the debtors of the archpriest's church were burdened, or if there were no titles to compel payment in court, this would not release the church from the obligation towards the founders who left the burden of administration to the church receiving the legacy. If, however, the revenues could not be collected from the debtors, without any fault or deceit on the part of the church, this could constitute a reason for obtaining a reduction or absolution from the Apostolic See. After these observations, it was noted that, in the present case, Titus had not sufficiently demonstrated the poverty of the debtors, the lack of titles to compel them in court, etc., as he should have shown: for Titus had spoken in a general way. If, however, the individual titles were not present in the parish archive, it was testified by the Bishop that they existed in the episcopal chancery. Since this was the case, the Bishop rightly decreed the celebration of Masses, since it is well known in law that he who has an action is considered to have the thing itself. If the creditor does not use the action to which he is entitled, the failure to collect the revenues is attributable to his negligence. Indeed, several things were noted in the facts that contradicted Titus' assertions; since he had not satisfied a certain legacy which was in his full possession; since some debtors asserted that they had all paid the revenues to Titus; and since it was not entirely in accordance with the truth that his predecessor and his successor had not satisfied the legacies. Regarding the second question, the resolution of the Sacred Congregation of Councils of the year 1604, Lib. 17, Decretor, p. 18, was cited, which reads as follows: "Nor can execution take place in such a property, nor in its fruits necessary for the sustenance of the Clericum." However, it is permissible to seize in a judicial

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action that part of the fruits which, each year, suffices...

[*Latin ed. p. 212*]

212. The DECREE of the Holy Visitation shall not extend beyond that which is necessary for the support of the Order, not living luxuriously, but modestly, according to the judgment of the judge. Also, see the aforementioned encyclical letter of Innocent X, which states: "That no execution can be carried out except upon a portion of their goods which remains after the Order's sustenance." Furthermore, in the diocese in which Titus is to live, the annual income is determined to be sufficient for the sacred patrimony.

36. Doubts.

I. "Whether and how the Decree issued in the Holy Visitation is to be enforced in this case."

II. "Whether and how the retention [of funds] on pensions is to be enforced in this case."

RESOLUTION. — The Holy Congregation of Bishops and Regular Canons, after discussing the matter on September 18, 1868, judged it fitting to respond as follows:

To I. Affirmative, according to Missal 386, in the latest form of information provided by the Bishop: and with the understanding that it is the duty of the Bishop to safely invest all pious bequests.

To II. Affirmative, for the amount exceeding the annual income of 36.

FROM WHICH WE GATHER:

I. Legacies for Masses, consisting of a specified sum of money, which are entirely paid to a particular church, so that annual Masses may be celebrated from them, must be invested and safely secured, so that the annual income may be perpetually and easily received.

II. From the reception of these legacies, a quasi-contract arises between the church and the testator or benefactor, by which the church assumes a perpetual obligation to administer the bequeathed goods and to fulfill the pious intention.

III. Therefore, the church cannot be excused from celebrating the same Masses if it does not receive the income from them, either due to its own negligence or due to improper administration of the legacies.

IV. However, a reduction in income, without the negligence of the church administrator or priest, may provide grounds for obtaining a reduction from the Apostolic See.

V. Finally, it is gathered that the sacred patrimony, determined for each diocese, cannot be burdened with the obligation of paying another's debt,

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lest the priest be forced to beg, which would be a disgrace to his order.

[*Latin ed. p. 213*]

213 FROM S, (REGARDING THE NEGATION OF THE HOLY RITES OF BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, FATHER DOMINIC ANTONY OF ORVIETO, PRIEST, OF THE ORDER OF MINOR FRATERS OF THE HOLY FRANCIS, CAPUCHIN. DECREE OF SAN FRANCISCO. — "On the sixth day before the Ides of June, in the year 1865, when the Most Holy Lord, Our Pope Pius IX, benignly decreed that the matter of the Signature Commission regarding the introduction of the cause of the Servant of God, Father Dominic Antony of Orvieto, Priest, of the Order of Minor Friars of the Holy Francis, Capuchin, should be considered in the Ordinary Congregation of Sacred Rites, without the intervention and vote of the Consultors, even though less than ten years had elapsed since the presentation of the Ordinary Process in the Acts of the Congregation of Sacred Rites, and the writings of the aforementioned Servant of God had not been examined: the undersigned Cardinal, Prefect of the aforementioned Holy Congregation and Relator of the Cause, at the request of the Reverend Father Amedeo of Orvieto, General Postulator of the Causes of Beatification and Canonization of the Servants of God of the Order of Minor Friars of the Holy Francis, Capuchin, having considered the postulatory letters of several illustrious men, especially those of ecclesiastical dignity, and having convened the Ordinary Assemblies of the Sacred Rites at the Vatican on this day, proposed the following question for discussion: "Whether the Commission for the Introduction of this Cause should be signed in this case and for the purpose in question?" And the Sacred Congregation, having carefully considered all matters, and having heard the voice and writings of the Reverend Father Dominic Minetti, Promoter of the Holy Faith, decided to respond "Affirmatively, or that the Commission should be signed, if it pleases the Most Holy [Pope]." On the 26th of September, 1868.

[*Latin ed. p. 214*]

214. ALBANI. "Subsequently, after considering the aforementioned matters through a report from the undersigned Secretary to His Most Holy Lord Pope Pius X, His Holiness approved the judgment of the Sacred Congregation and, with his own hand, signed the commission for the introduction of the cause of beatification of the Venerable Servant of God, Father Dominic Anthony, of the aforementioned city. On the 1st of October, in that same year." C. Epis. Port., and S. Rufinae, Cardinal Patrizi, S. R. C., Prefect. In loco, gg. Sigilli, D. Barlolini, Delineatio vitae, S. R. Secretarius. The Servant of God was born in Rome, in the parish of Saint Mary beyond the Tiber, from pious and honorable parents, Sebastian Galli and Antonia Alberti, in the year 1746. He was given the name Dominic at his baptism, a

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name which he retained in his religious profession. He was marked by the sacred chrism from his youth. From his childhood, he showed himself obedient, and, detesting childish things, he devoted himself to works of piety and the study of letters. As a young man, he began to serve God more diligently, until he entered the religious family of the Capuchin Order. From the very beginning of this life, he conducted himself in such a manner that he was considered an example of perfection from that time forward. After being admitted to religious profession with full consent, he was then promoted to the sacred Orders. Having been initiated into the priesthood, he accepted the office of preaching from his superiors in the Order, which he fulfilled with great benefit to souls, especially in the province of Campania and Lanuvium. Later, he was entrusted with the office of confessor, which he performed with the utmost diligence, assiduity, and uncommon zeal. Among the Christian virtues which he cultivated in a singular manner, he especially loved the virtue of faith, which he readily demonstrated through the fervor of his prayers, which he never neglected, except when obedience or the duty of hearing sacramental confessions required it. Whenever he approached the altar to celebrate Mass, his face was visibly inflamed.

[*Latin ed. p. 215*]

ALBANEN. 215 He was endowed by God with charisms and supernatural gifts: for it is said that he foretold many things which the faithful observed to come to pass; that he healed the sick; that he revealed secrets of hearts; and that he was sometimes raised in ecstasy. Having accumulated merits through virtues and renowned for his sanctity, he bravely bore the suffering of dropsy, and, having been duly fortified with the sacraments of the Church, he died in the Convent of his Order, Cynthiani, on October 27, 1813. After his death, and after the funeral rites were performed, his body was not immediately consigned to the grave, but remained unburied for two or three days, in order to satisfy the immense throng of faithful and their devotion, who, led by the persuasion of his sanctity, desired above all things to possess the relics of the same Servant of God. This concerns the life of the Servant of God. After a brief account of his life, the cause was presented to the Promoter of the Cause, according to custom, to demonstrate the virtues of the Servant of God, first those theological virtues, then the cardinal virtues, and also the supernatural gifts, as well as the reputation for sanctity during his life and after his death. Then followed the most careful observations of the Reverend Father, the Promoter of the Faith, both concerning the process instituted according to ordinary authority, and concerning the reputation for sanctity to be demonstrated from the same process, and also concerning the obstacles to proceeding, so that in the formal discussion of the cause, the cause might not be halted. And then followed the responses of the Promoter of the Cause. The cause, having been presented to the Most Holy Congregation of Sacred Rites, produced

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a decree, which is given above. NEAPOLITANA. Decree concerning the Beatification and Canonization of the Venerable Servant of God, Brother Michael of the Angels, of the Order of Friars Minor of the Strict Observance of Saint Peter of Alcantara. DECREE. — "Whereas, on the eve of the Nones of July in the year 1865, Our Most Holy Lord Pope Pius IX, with paternal kindness, approved the examination of the life, virtues, and miracles of the Venerable Servant of God, Brother Michael of the Angels, of the Order of Friars Minor of the Strict Observance of Saint Peter of Alcantara..."

[*Latin ed. p. 216*]

216. In Naples, the cause was advanced in the ordinary sessions of the Congregation of Sacred Rites without the intervention or vote of the Consultors, at the urgent request of the Reverend Father Donato Antonio, of the Sacred Heart of Jesus, General Procurator of the aforementioned Order, and Promoter of the Cause; Furthermore, the Most Reverend Cardinal Prosper Caterina, Promoter of this Cause, proposed the following question for discussion at the ordinary sessions of the Congregation of Sacred Rites held this day in the Vatican: "Does it appear that the Apostolic Process constructed in Naples, based on the reputation of the sanctity of life, virtues, and miracles of the aforementioned Venerable Servant of God, is valid and relevant in this case and to the effect of what is being considered?" The Most Reverend Fathers entrusted with the safeguarding of the sacred rites, after mature deliberation, and having heard the voice and written opinion of the Reverend Father Peter Minetti, Promoter of the Holy Faith, judged it necessary to respond: "Affirmatively." On September 26, 1868. "The foregoing having been reported by the undersigned Secretary to His Holiness, Our Most Holy Pope Pius IX, His Holiness approved and ratified the Decree of the Sacred Congregation. On October 1st of the same year." C. Epis. Portuensis et S. Rufinae, Cardinal PATRIZI, S. R. C., Prefect. Locum tenens. D. Bartolini, S. R. C., Secretary. BERGOMEN. AND BRESIA. OF THE ORDER OF PREACHERS. Decree concerning the confirmation of the cult granted to the Servant of God, Bishop of Brescia, of the aforementioned Order, at an unforgettable time. — "Among those men who, through their knowledge and sanctity, illuminated the Church of God in the 13th century, the Servant of God Guala, of the Order of Preachers, and Bishop of Brescia, deserves to be mentioned. This Servant of God, long before the centenary required by the decrees of the Holy Father Urban VIII, obtained public and ecclesiastical cult, and in that cult, he..."

[*Latin ed. p. 217*]

BERGAMO. 217. Having considered the evidence and testimonies, which, up to this time, have so clearly demonstrated the matter, the Most Reverend Father Vincent Aquarone, General Postulator for the Causes of Beatification and Canonization of the Servants of God of the

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Order of Preachers, judged that it could be affirmed without any doubt that the cause for the declaration of cult should be pursued before this Holy Apostolic See. Therefore, adhering to the wishes, not only of the aforementioned Postulator, but also of the Most Reverend Bishops of Bergamo and Brixen, and the Most Reverend Cardinal Alexander Barnabò, promoter of this cause in the Ordinary Congregations held today in the Vatican, the following question was proposed for discussion: "Does it pertain to a public ecclesiastical cult rendered to the aforementioned Servant of God from time immemorial, or does it pertain to a case excepted from the Decrees of His Holiness Pope Urban VIII?" After a careful examination by the Most Reverend Fathers entrusted with safeguarding the sacred rites, and after hearing the opinion, both orally and in writing, of the Reverend Father Peter Minetti, Promoter of the Holy Office, it was deemed necessary to respond: "Affirmatively, or, it pertains to a case excepted." September 26, 1868.

Subsequently, a report on the foregoing was made to the Most Holy Lord Pope Pius IX, and His Holiness approved the Decree of the Sacred Congregation, confirming the public and ecclesiastical cult rendered from time immemorial to the Blessed Ghislain, Confessor Bishop of Brixen. October 1, in the same year.

C. Episc. Port., and S. Rufinae. Cardinal Patrizi, S. R. C., Prefect.

D. Bartolini, S. R. C., Secretary.

[*Latin ed. p. 218*]

218 ANGERS. The cult of devotion to the Blessed Reginald, a hermit, has been observed from time immemorial. The Servant of God, Most Reverend Monsignor William Angebault, Bishop of Angers, had endeavored to demonstrate, from irrefutable documents, that a public and ecclesiastical cult had been rendered to the Servant of God, Blessed Reginald, the hermit, from time immemorial, before the decrees of His Holiness Pope Urban VIII, and that this cult had never been interrupted, but had persevered until these times. Therefore, he sought that this same cult be confirmed by this holy Apostolic See. Most Reverend Monsignor Cardinal John Baptist Pitra, Relator of this cause, at the request of the aforementioned Most Reverend Bishop of Angers, proposed the following question to be discussed at the Ordinary Assemblies of the Sacred Rites held today at the Vatican: "Does it appear that a public and ecclesiastical cult has been rendered from time immemorial to the aforementioned Servant of God, or does an exception exist from the decrees of His Holiness Pope Urban VIII?" After mature deliberation by the Most Reverend Fathers entrusted with the safeguarding of the sacred rites, and after hearing the opinion of the Reverend Father Peter Minetti, Promoter of the Holy Faith, both orally and in writing, it was decided to respond: "It appears that an exception exists." On September 26, 1868. Concerning all of the above, after a report was subsequently made

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by the undersigned Secretary to His Holiness Pope Pius IX, His Holiness approved the Decree of the Sacred Congregation and confirmed the public and ecclesiastical cult rendered from time immemorial to the Blessed Reginald, the hermit, Confessor. On October 1st of the same year." C. E. P. [Cardinal] Port, and [Cardinal] Patrizi, S. R. C. [Prefect]. D. Bartolini, S. R. C. [Secretary].

[*Latin ed. p. 219*]

219 FROM THE CONGREGATION OF INDULGENCES, CAMBRY. DECREE.—"It sometimes happens, especially during Sacred Missions, that when a priest legitimately appointed for that purpose bestows the scapular of the Blessed Virgin Mary of Mount Carmel, or another, upon the faithful, the scapulars are exhausted before the prayers of all the faithful can be satisfied; therefore, the Superior of the house of the Religious Society of Mary in the archdiocese of Cambray, commonly called Turcoim, humbly petitions the Sacred Congregation of Indulgences for a solution to the following doubts. I. Whether a single scapular, once blessed, can be repeatedly bestowed upon several persons in turn, merely by repeating the formula of reception or imposition for each? II. Whether the formula customarily used in the act of bestowing scapulars is essential, so that one may be considered to have rightly received the scapular, and thus have the right to the indulgences granted with it; or whether it can be omitted without detriment to the indulgences, especially in cases of illness or other urgent circumstances? III. Since, according to the Indult of Pope Gregory XVI, dated April 30, 1838, it is no longer necessary to record the names of the faithful who receive the scapular of the Blessed Virgin Mary of Mount Carmel in the book of the confraternity, in order to acquire indulgences: is the same to be said of other scapulars approved by the Holy See?" Therefore, the Most Eminent Fathers, in the General Congregation held in the Apostolic Palace at the Vatican on July 20, 1868, having first heard the vote of the Consultor, and having carefully considered the matters, decreed as follows: To I. Affirmative; provided, however, that the first scapular, which must thereafter be worn, be blessed. To II. In both parts, the words must be used which are substantial to the form of the Decree of this Sacred Congregation of August 24, 1844, which reads as follows: "Whether it is permissible for priests to enroll the faithful in the confraternity of the Blessed Virgin of Mount Carmel."

[*Latin ed. p. 220*]

220 REGARDING THE SCAPULAR. "Do those who possess the faculty [to bestow the scapular] have the obligation to observe the form described in the Ritual and Breviary of the Order of Carmelites?" The Sacred Congregation responded: "Affirmatively, provided that the priests who possess the faculty do not fail in the essential matters, namely, in the blessing, and

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the imposition [of the scapular], and in the reception [of the wearer] into the confraternity." Thus declared the Sacred Congregation on August 24, 1844.

III. "Negatively." And after a report on the foregoing was made to His Most Holy Father, Pope Pius IX, by the undersigned Cardinal Prefect, in an audience held on August 18, 1868, His Holiness confirmed the resolution of the Sacred Congregation.

Given at Rome, from the Secretariat of the aforementioned Sacred Congregation, on the day and year as above,

A. Card. BIZZARRI, Prefect.

A. Colombo, Secretary.

Consultor. Regarding the first doubt, the Consultor noted that the Sacred Congregation declared on August 24, 1844, that a valid reception of the sacred scapular occurs if the essential matters are observed, namely, if priests who possess the faculty do not fail in the blessing and imposition, and in the reception into the confraternity. And here, he noted that the reception of the sacred scapular does not always entail reception into the confraternity, since the scapular of the Theatines, instituted in honor of the Immaculate Virgin Mary, ConcepciÃ³n, is not a sign of any particular confraternity duly established by the Theatines; nor is it the case with those distributed by the Most Reverend Congregation of Missionaries of Saint Vincent, that is, the scapular of the Passion of Our Lord. Furthermore, there are many priests, especially missionaries, who are granted the faculty to bless and impose Carmelites scapulars, who are not required to inscribe the names of the faithful in the register of confraters. Therefore, the Consultor was of the opinion that reception into the confraternity should not be considered as an essential condition for a valid reception of the scapular, but...

[*Latin ed. p. 221*]

CHAPTER 221, concerning solely the aggregation, if someone wishes to be aggregated, in places where the Confraternity exists. Therefore, having set aside the necessity of inscribing the faithful, there are two conditions for validly blessing and imposing the scapulars according to the prescribed formula, and for imposing them upon the faithful: but if several should simultaneously desire to receive the sacred habit, the words of the blessing and imposition can be changed into the plural form. Having considered these matters, the Consultor, based on practice thus far, judged that what was expressed in the first doubt was excessively different. Regarding the second doubt, the Consultor observed that for each type of scapular, there are specific formulas for the blessing and imposition approved by the Holy See; sometimes, for greater solemnity, it is customary to recite psalms, which certainly can be omitted; but he considered that the formulas which

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express the blessing and the reception cannot be omitted or changed, and in this sense, he understood the aforementioned Decree to be meant. Regarding the third doubt, he observed that inscription is an essential condition for obtaining Indulgences and graces whenever a Confraternity of those wearing the scapulars is established, to which they must belong, except in the case where the Holy Father has granted a dispensation for particular reasons, as did Gregory XVI. From WHICH WE GATHER: I. To validly and properly co-opt the faithful into the Confraternities of the sacred scapulars, substantial conditions are prescribed. II. Such conditions consist in the blessing and imposition of the sacred habit, and in reception into the Confraternity. III. The imposition is considered to be completed by the act of the priest who gives the scapular, and it is not necessary that the person aggregated retain the scapular, provided that they subsequently fulfill the condition of wearing the blessed scapular at least once. IV. It should not be considered that Gregory XVI, through a special indult granted to the Carmelites for certain reasons, has removed the third substantial condition (1). (i) See Appendix V.

[*Latin ed. p. 222*]

FROM THE CONSISTORY ACTS. APPOINTMENTS OF BISHOPS AND DESCRIPTIONS OF THE CHURCHES OVER WHICH THEY PREVAIL. Dated June 1, 1868. His Most Holy Lordship, in addition to the churches described on page 112 and following, proposed in the same secret Consistory, held on June 22, 1868, the following: The CATHEDRAL CHURCH of Chelm, of the Greek-Catholic rite, united with the Holy Roman Church, which had previously been vacant due to the death of the Most Reverend Philip Szumborski, the last Bishop of that See, who died outside the Roman Curia; for the Administrator of that Church, John Taraszkiewicz, Bishop of Bels, who was promoted to that same Church in a secret Consistory held on March 16, 1863, passed away a few days later, and John Kalinski, appointed Prefect of the Church of Bels in the same secret Consistory, and designated as his Coadjutor with future succession, although endowed with Episcopal jurisdiction, also passed away the previous year, and was never able to receive the office of consecration; the Prefect of this Church is the Reverend Michael Kuziemski, a priest of the Archdiocese of Leopoliensis, who has particularly distinguished himself in the exercise of the care of souls; he resigned from the office of Chancellor of the Consistory of Leopoliensis, and then from the dignity of Dean of the Greek-Catholic Chapter of St. George, and subsequently from the office of General Vicar and Official of the same Archdiocese. The city of Chelm is located in the Russian Empire, in the province of Lublinensi, and is of small size, with more than four thousand five hundred inhabitants, of whom one thousand two hundred profess the Greek-Catholic rite, united with the Holy Roman Church. The Cathedral Church, built of hard stone and well-maintained, is dedicated

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to the Blessed Virgin Mary, and will be immediately subject to the Apostolic Holy See, until a Ruthenian Metropolia, united with the Holy Roman Church, has been restored in the Russian territories. Its Chapter comprises five Canons, among whom are three dignities, the first of which is the Archpresbyterate, and after the pontifical dignity, the title of Bishop of the Church of Bels is usually held; in addition, it includes other priests and clerics who serve in the divine services. The care of souls is exercised in the Cathedral by a parish priest, where there is a baptismal font, and a sacristy fully equipped with all the sacred furnishings, suitable for performing divine services and for carrying out pontifical ceremonies, as well as a choir, a bell tower with bells, and a cemetery. The Episcopal palace, built of hard materials, is located near the Cathedral, and requires no repairs of any significance. The assessed revenues in the Treasury books amount to 33 florins, equivalent to four thousand rubles of that currency. Only one parish church is found in Chelm, and it is equipped with a baptismal font.

[*Latin ed. p. 223*]

FROM HISTORICAL ACCOUNTS: A lay sodality, and a seminary with students; a collegiate church, monasteries, a hospital, and a charitable institution are desired. The diocese is extensive, encompassing more than twenty deaneries, two hundred and sixty-seven parishes, and approximately two hundred and thirty thousand Greek-Catholics. The CATHEDRAL CHURCH OF ANTEQUERA, located in the territory of Mexico in North America, is vacant due to the death of the Very Reverend Joseph Mary Covarrubias. The Reverend Vincent Marquez, a priest of the diocese of Antequera, has been appointed to it; he is a doctor of sacred theology, eminently suited for ecclesiastical functions, and has hitherto served as a Vicar Capitular. The city of Antequera, the capital of the province of Guaxaca in the territory of Mexico in North America, is extensive, built partly on the plain and partly at the foot of the mountains, and contains more than forty thousand inhabitants who profess the Catholic religion. The Cathedral Church, of sufficient size and elegant structure, dedicated to the Assumption of the Blessed Virgin Mary, serves as a suffragan to the Archbishop of Mexico. Its chapter comprises four dignitaries (of whom the first, after the pontifical office, is the Deanery), eight canons, with the provision for each, several beneficed or portioned clergy, and other priests and clerics serving in the divine ministry. Two priests exercise pastoral care in the Cathedral, where there is a baptismal font, unique in the city, etc., and outside the city there is a cemetery. Four other churches are located in Antequera, seven for men, and six for women; there are also monasteries, several lay sodalities, a hospital, and a seminary; however, a charitable institution is desired. The extent of the diocese is very wide, encompassing many places. The CATHEDRAL CHURCH OF SONORA, in the territory of Mexico in North America, is

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vacant due to the translation of the Reverend Father Peter Loza to the metropolitan See of Guadalajara; the Reverend Gii Ala man, a Mexican priest, has been appointed to it, who, while serving the benefit of the faithful, has hitherto renounced the position of canon. The city of Sonora, whose episcopal seat was established by the Most Holy Pope Pius VI in the city of Arispe, is located in the territory of Mexico in North America, and is built on a hill; it is small in size and inhabited by approximately seven thousand people who profess the Catholic religion. The Cathedral Church, a well-built structure, dedicated to the Assumption of the Blessed Virgin Mary, serves as a suffragan to the Archbishop of Guadalajara. Due to a lack of priests, its chapter has not yet been established, and the parish priest alone exercises pastoral care in the Cathedral, where there is a baptismal font, unique in the city, etc. The episcopal palace has not yet been erected, but the Bishop resides in a house maintained at the expense of the government. Besides the Cathedral, no other parochial or collegiate church is found in the city of Sonora, nor a charitable institution, but there is a lay sodality, a hospital, and a seminary. The extent of the diocese extends to approximately three hundred and fifty leagues, and encompasses more than two hundred places with as many parishes. The CATHEDRAL CHURCH OF AREQUIPA, in the Peruvian territory of South America, is vacant due to the death of the Very Reverend John Calienes; the Reverend Joseph Benedict Torres, a priest of the diocese of Trujillo, has been appointed to it, who, after receiving a doctorate in both laws, and after many distinguished services, both for the good of the faithful and for the benefit of the diocese, was made a canon and honored with the dignity of Cantor, and has hitherto served as a General Vicar. Arequipa, a city of the Peruvian territory in South America, is located in a plain.

[*Latin ed. p. 224*]

224 Kos, built upon ancient foundations, is a small city, containing approximately fourteen thousand inhabitants who profess the Catholic faith. The cathedral church, magnificently and elegantly constructed, is dedicated to the Assumption of the Blessed Virgin Mary, and serves as a suffragan to the Archbishop of Limano. Its chapter consists of five dignitaries (of whom the first, after the pontifical office, is the Dean), three with both the theological and penitential duties, canons, four prebendaries or beneficiaries, and other priests and clerics who serve in the divine ministry. Two priests exercise pastoral care in the cathedral, where there is a baptismal font, etc., and outside the city there is a cemetery. There are also two parish churches with baptismal fonts, six monasteries for men and two for women, several lay sodalities, a hospital, and a seminary; however, a house of piety is lacking. The extent of the diocese extends approximately one hundred leagues, and encompasses eighty or more

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locations.

The EPISCOPAL CHURCH OF TROAS, under the Archbishop of Gyzico, is vacant in lands among the infidels, having been united to the cathedral sees of Thinensis and Miconensis by succession of the Most Reverend Father John Marangò; to it has been appointed the Reverend Father Francis Maria Granado, a priest of Cochabambensis, and he has been designated as an auxiliary to perform pontifical and other pastoral duties in that city and diocese, with his consent and at his discretion, according to the decree of the Sacred Congregation. The same (Granado) has been promoted in sacred theology, and has been awarded a doctorate in canon law, and has diligently performed ecclesiastical duties, especially in the preaching of the Word of God and in hearing sacramental confessions. He previously held the office of vicar capitular, and was chaplain of the Carmelite monastery, and procurator of the Bishopric of Cochabambensis, and of the diocese, and was an examiner for the Synod, etc., until he resigned. Troas, the city of Alexander, in Asia Minor, founded by Alexander the Great in Phrygia, on the shore of the Aegean Sea, is still held by the infidels.

The EPISCOPAL CHURCH OF AGATHOPOLI, under the Archbishop of Hadrianopolitan, is vacant in lands among the faithful, due to the death of the Most Reverend Father Louis Bel; to it has been appointed the Reverend Father Francis Adolphus Namszanwski, a priest of the diocese of Culmensis, who has performed many distinguished ecclesiastical duties, especially in exercising pastoral care and giving theological lectures, and who was, until recently, the Dean Foraneus in the diocese of Warmiensi. Agathopolis, the episcopal city of Thrace, is still held by the infidels.

The EPISCOPAL CHURCH OF NILOPOLIS, under the Archbishop of Damiatensis, is vacant in lands among the infidels, due to the transfer of the Reverend Father Walter Steins to the Episcopal Church of Bostren, also in lands among the infidels; to it has been appointed the Reverend Father Joseph Szabò, a priest of the diocese of Veszprimiensis, and the Reverend Father John Simor, an auxiliary of the Archbishop of Strigoniensis, has been appointed to perform pontifical and other pastoral duties in that city and archdiocese, with his consent and at his discretion, according to the decree of the Sacred Congregation. The same (Szabò) has been promoted after having performed many most distinguished duties, and was co-opted among the Domestic Prelates of Our Most Holy Lord. Nilopolis, a city of Egypt, on the western bank of the Nile, between Memphis and Heraclea, is still miserably subject to the yoke of the infidels.

[*Latin ed. p. 225*]

FROM THE ACTS OF THE CONSISTORY. 225 Then the Most Holy Father announced the appointments which had recently been made through the Secretariat of Briefs: namely, he appointed the Reverend Father John Baptist Bagalà-Biasini as the Episcopal Prelate of Cydon, in territories of the

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infidels; the Reverend Father Salvatore Magnasco, Canon of Penance in the Metropolitan Church of Genoa, as the Episcopal Prelate of Bolina, in territories of the infidels; and the Reverend Father Stephen Fennely, Apostolic Vicar in Madras, as the Episcopal Prelate of Thermopilae, in territories of the infidels. Afterwards, the Reverend Father de Lavastida, Archbishop of Mexico, requested the sacred Pallium for the Metropolitan Church of Saint Faith in Neogranada, in which see the same Prelate Arbelaes succeeded the Reverend Father Anthony Herran; also, a request was made for the sacred Pallium for another Metropolitan Church, that of Guadalajara. REGARDING THE SECRET CONSISTORY HELD ON SEPTEMBER 24, 1868. The Most Holy Father held a public Consistory in the morning to bestow the Cardinal's hat upon the Most Reverend Lords Innocent Ferrieri and Lawrence Barili, and to announce the Fathers Cardinal who were created in the secret Consistory on March 13th of the present year. In the meantime, the Consistorial Advocate, John Baptist Bonini, for the first time, presented the cause for the Beatification of the Venerable Anna Maria Taigi. After the public Consistory, the Most Holy Father held a secret Consistory; in which, after having closed the doors according to custom, he presented the following churches to the Most Reverend Fathers Ferrieri and Barili. CATHEDRAL CHURCHES OF CORNETO AND CENTUMCELLAE, perpetually and canonically united with each other through the death of the Most Reverend Camillus Bisleti, the last of their Bishops. The Reverend Father Francis Gandulfi, formerly the prelate of Antipatra in territories of the infidels and suffragan of Sabina, was transferred to these. Acts, vol. IV, p. XL. Corneto, or Cornuetum, and Centumcellae, cities under the jurisdiction of the Holy See, the former built on a hill near the Martam river, within a distance of almost two Roman miles, containing five thousand inhabitants, and the latter, enjoying a port and surrounded by walls, located on the coast of the Mediterranean Sea, partly on the plain and 15...

[*Latin ed. p. 226*]

226 FROM HISTORICAL RECORDS. The city, partly situated on a hill, is inhabited by approximately eight thousand people and, even in temporal matters, obeys the Holy Apostolic See. The Cathedral Church of Saint Margaret the Virgin and Martyr in Corneto, and the Church of Saint Francis of Assisi in Centumcellae, are immediately subject to the Holy Apostolic See. The Chapter of Corneto consists of three dignitaries (the first of which, after the pontifical office, is the Archdeaconry), and includes twenty canons, as well as six beneficed clergy. The Church of Centumcellae comprises ten canons (among whom is the dignity of the Rector), and five beneficed clergy; both enjoy theological and penitential duties, and also include other priests and clerics dedicated to divine service. The Chapter of Corneto has the care of souls, which is exercised by a canon, while the Rector himself administers the care of souls in Centumcellae. Both have baptismal fonts,

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and among the relics of the saints, the arm of Saint Secundian and the body of Saint Lituard, patrons of the city, are properly preserved; and outside the cities, there are cemeteries. Furthermore, there are four parish churches in Corneto, and three in Centumcellae, almost all of which are equipped with baptismal fonts. In the aforementioned cities, there are two monasteries for women, and an orphanage, and in the other, a conservatory and a house for girls. Both cities also have five monasteries for men, several lay sodalities, a hospital, and a charitable institution. A seminary, which was previously established in Centumcellae and abandoned due to the ravages of time, will be erected elsewhere for the benefit of both dioceses. The united dioceses are sufficiently large and encompass several locations.

THE CATHEDRAL CHURCH OF GAUDISIA is vacant due to the death of the Most Reverend Michael Francis Buttigieg, the last bishop of that see. The Reverend Father Anthony Greeh Delicata Cassia Testaferrata, formerly the bishop of Calydon in the lands of the infidels, has been transferred to it. Gaulos, or Gaudisia, commonly known as Gozo, is a city and the capital of an island in the Mediterranean Sea, to the west of Malta and near the Promontory of Mercury, and is approximately thirty-six Roman miles in circumference, where a fortress is built on a mountain, to which a pleasant suburb adjoins, and it encompasses several thousand inhabitants. The Cathedral Church is quite spacious and appropriately decorated, and is dedicated to the Assumption of the Blessed Virgin Mary, and is immediately subject to the Holy Apostolic See. Its Chapter comprises three dignitaries (the first of which, after the pontifical office, is the Archpresbyterate), more than twenty canons, a theologian, and a penitentiary, ten chaplains or mansionaries, and several other priests and clerics dedicated to divine service. The Chapter has the habitual care of souls, which is administered by the Archpresbyter in the Cathedral, where there is a baptismal font, etc., and among the relics of the saints, the relics of Saint Ursula and the body of Saint Lucidus the Martyr are properly preserved. Furthermore, there is another parish church in Gaudisia, and seven smaller ones, three monasteries for men, a conservatory for girls, a hospital for the poor, a hospital for both sexes, two lay sodalities, a school, a charitable institution, and a seminary. The territory of the diocese encompasses three islands, commonly called Gozo, Cornino, and Comotto, comprising seven towns or parishes, three with affiliated churches, and more than seventeen thousand inhabitants.

THE CATHEDRAL CHURCH OF CAUBIEN is vacant due to the translation of the Reverend Father Stephen Joseph Perez Fernandez to the See of Malaca. By the grace of the Most Holy Lord, he has been promoted to this position.

[*Latin ed. p. 227*]

FROM THE ACTS concerning the presentation to the Most Serene

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Queen of Catholica, the Reverend Father Peter Nuñez, a priest of the Astorga diocese, who, having received a doctorate in theology, has undertaken ecclesiastical duties; he was formerly an Abbot in the Collegiate Church of La Frontera, and later Archdeacon in the Toledo church, having renounced those positions. Cauria, or Caurium, a city in the province of Caceres in Hispania, located near the Alagon River, which is five leagues from Tagum, is situated in a fertile location and on a hill, and contains approximately six hundred houses, inhabited by nearly as many families, and is under the temporary dominion of the aforementioned Most Serene Queen of Catholica. The Cathedral Church, of a sufficiently large and elegant Gothic structure, boasts the title of the Assumption of the Blessed Virgin Mary, and, according to Apostolic Letters entitled "Ad Vicariam," dated September 9, 1801, it is subject to the Archbishop of Toledo. Its Chapter includes, as stipulated in the aforementioned Apostolic Letters, the following dignities (of which the first after the pontifical office is the Deanery), four Canonicals with theological and penitential duties, seven honorary Canons, and twelve beneficed Canons, as well as seven chaplains of the choir. A parish priest exercises pastoral care in the Cathedral, where there is a baptismal font, etc., and outside the city there is a cemetery. Furthermore, in Cauria, there is a parish church with a baptismal font, one monastery for women, three lay sodalities, a hospital, and a seminary; however, a house of piety is lacking. The diocese encompasses a very wide area, including one hundred and seventeen locations.

The CATHEDRAL CHURCH OF PEACE, located in the Bolivian territory of America Meridionalis, became vacant due to the death of the Very Reverend Mariano Fernandez de Cordova. The Reverend Callixtus Clavijo, a priest of the diocese of Peace, was promoted to that position. He, who received a doctorate in theology and canon law and has diligently served in ecclesiastical duties, had previously served as a parish priest in various parishes within his diocese, and was also appointed as a professor at the College of Sciences in the city of Pacensi, and as a chaplain, and later as a Portionary, then as a Canon of the Merced, in the Cathedral of Peace, and finally as an Archdeacon in the metropolitan church of Plata. He also served as an Examiner and Assistant Judge in the aforementioned metropolitan choir. The city of Pax, the capital of the homonymous province in America Meridionalis, is located between mountains to the east and is of considerable size, inhabited by more than forty thousand people. The Cathedral Church, recently expanded with a new building, is dedicated to St. Mary of Peace and is subject to the Archbishop of Plata. Its Chapter consists of three dignities, the first of which, after the pontifical office, is the Deanery, and includes five Canons with theological and penitential duties, three honorary Canons, and two half-Portionaries, as well as other priests and clerics serving in the ministry. A parish priest, assisted by two other priests, exercises pastoral care in the Cathedral, where there is a baptismal font, etc.,

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and outside the city there is a cemetery. Furthermore, in the city of Peace, there are four parish churches with baptismal fonts, two monasteries for men and the same number for women, several lay sodalities, a hospital, and a seminary; however, a house of piety is lacking. The diocese encompasses a very wide area, including many locations.

The CATHEDRAL CHURCH OF THE RIVER JANUARY IN S. SEBA-BRASILIA became vacant due to the death of the Very Reverend Emmanuel a Monte Rodrigues de Araujo, the last Bishop of that see. The Reverend Peter was promoted to that position.

[*Latin ed. p. 228*]

228 FROM THE ACTS: Maria de Lacerda, a priest of that diocese, through the benevolence of the Most Holy Lord, was appointed to present a sermon to the Emperor of Brazil. The same [Maria de Lacerda] was promoted to the theological faculty and received a doctoral degree from the University of Rome, and she excelled in ecclesiastical duties; among the canons of the church of Lodi, she was formerly enrolled, and until now, she has renounced her position as Professor of philosophy and mathematics in the diocesan seminary. São Sebastião, the capital of the Brazilian Empire, and the seat of the Imperial Court, is notable for its fertile lands, the abundance of its people, the healthiness of its air, and its commerce, and it contains approximately five hundred thousand Catholic inhabitants under the temporary dominion of the aforementioned Most Serene Emperor. The cathedral church, a large and decently adorned structure, bears the title of the Blessed Virgin Mary of Mount Carmel, and it serves as a suffragan to the Archbishop of São Salvador in Brazil. Its chapter consists of six dignitaries (of whom the first, after the pontifical office, is the Dean), sixteen canons without theological or penitential duties, the same number of chaplains and singers, three masters of ceremonies, ten acolytes, and other priests and clerics who serve in the divine ministry. Through one of these canons, and through a priest, a canon with a distinguished title and privileges, the care of souls is exercised both in the church called the Most Holy Sacrament, as well as in the cathedral itself, where there is also a baptismal font, etc., and outside the city, a cemetery. The episcopal palace, magnificently built on a pleasant hill, is located a short distance from the cathedral; the bishop also possesses another, more modest dwelling, which is sufficiently large and comfortable. In addition, there are ten parish churches with baptismal fonts in the city of São Sebastião, two collegiate churches, four monasteries for men and two for women, two congregations of each sex, numerous lay sodalities, many hospitals, a charitable foundation, and a seminary. The territory of the diocese extends to the regions of the provinces of São Sebastião, Santa Catarina, and Spiritus Sancti, and encompasses several other locations.

THE EPISCOPAL CHURCH OF Castoria, vacant under the Archbishop

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of Acridensis due to the death of the Reverend Father John Fennely. The Reverend Father John Jacob Kraft, a priest of the diocese of Treves, was appointed to it, and he was designated as a suffragan to the Reverend Father Matthias Eberhard, the Bishop of Treves, to perform pontifical and other pastoral duties in that city and diocese, according to the Consistorial Decree approved by the Most Holy Lord: the same [Father John Jacob Kraft], promoted to the theological faculty and awarded a doctorate, excelled in preaching the Word of God, in administering the sacraments of confession, and in the care of souls, in which he served as a vicar and as a parish priest, and as a professor and sub-regent in the seminary, and until now, he has renounced his position as a canon in the cathedral of Treves. Castoria, a city of the episcopate of Macedonia, near the lakes of Lychnidus, and close to the cities of Prilepo and Achridae, is still miserably oppressed under the yoke of the infidels. From this, the Most Holy Father has made known the elections, which, for churches in regions among the infidels, were ordered to be carried out by the Congregation for the Propagation of the Faith from the last Consistory to the present: that is, to the Archiepiscopal Church of Philippen, the Reverend Father Steph-

[*Latin ed. p. 229*]

FROM THE CONSISTORY ACTS. 229. In Stefanopoli, a Greek Bishop was appointed to perform the sacred ordinations in Romae. To the Flaviopolitan episcopal church, the Reverend Franciscus Ioannes Laouenan was appointed as Apostolic Vicar of Pondicherry. To the episcopal church of Mederi, the Reverend Christophoros Bonjean was elected as Apostolic Vicar of Iafapatam. To the episcopal church of Nemesin, the Reverend Father Mariam Efrem, of the Discalced Carmelites, was elected as Apostolic Vicar of Quilon. To the episcopal and episcopal church of Dorylen, the Reverend Ioannes Sallepoint was appointed to govern the newly established Apostolic Vicariate of Anzona. To the episcopal church of Olympen, the Reverend Father Leonardus, of the Discalced Carmelites, was appointed as coadjutor to the Apostolic Vicar of Verapoly, the Reverend Father Bernardinus Baccinelli. To the episcopal church of Pompeiopolitan, the Reverend Franciscus Tagliabue was elected as coadjutor to the Apostolic Vicar of Kiang-si, the Reverend Father Ioannes Henricus Baldus.

APPENDIX IV. ON THE QUESTION OF WHETHER THE SACRED EUCHARIST WAS ADMINISTERED TO THE FAITHFUL AT PUBLIC FUNERAL MASSES IN ANCIENT TIMES. This question refers to the Decree of the Sacred Congregation, which I cited on page 35, and on which I wrote on page 191. The Consultor, who considered it appropriate to examine this archaeological question, noted at the beginning that those who deny that the Sacred Communion was given to the faithful in funeral Masses in the early centuries of the Church, rely on this argument: that funeral Masses

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in the early centuries of the Church were only *privatae*; that Communion was not given to the faithful in *privatae* Masses; therefore, Communion was never given to them in funeral Masses. However, the Consultor maintained that the authors could prove these propositions with a single argument, namely, the argument derived from Canon IV of the Council of II Vasensis, celebrated in the year 629, of which Albaspina wrote in *De Veteribus Eccles*, rit. I, p. 17: "That those were *privatae*, and not solemnities, that is to say, they were not instituted so that all the faithful might publicly receive Communion, just as on holidays and feast days, is evident from Canon IV of the Council of II Vasensis, where a distinction is made between solemnities and funeral rites."

[*Latin ed. p. 230*]

230 APPENDIX IV. Therefore, the Consultor undertook to expound the aforementioned canon, which, as is reported in the collection of councils compiled by Labbé, volume 4, page 1680, reads as follows: "It has also pleased Us that... in all Masses, whether morning Masses, or those of Lent, or those offered for the commemoration of the Dead, the words 'Holy, Holy, Holy' should always be said, in that order in which they are said in public Masses." However, the Consultor observed that if this canon were understood to mean that public Masses were to be distinguished from private Masses, it would follow that even Lenten Masses had always been private; and therefore, that the Holy Eucharist had never been distributed during Lent. This, however, is contrary to the truth, since both public and private Masses were celebrated during Lent; and moreover, that in the 6th and 7th centuries, according to the ancient custom, the faithful were daily given the Holy Eucharist, as is stated by Cardinal Bona in *Rerum Liturgicarum Studia*, I, 2, chapter 1, section 2, Sala, ibid., note 2. Therefore, he concluded that the meaning of the canon was that the words 'Holy, Holy, Holy' should always be recited in any Mass, whether morning, or Lenten, or for the Dead, or of any other kind, whether it was a public or a private Mass. These observations, however, have either no connection with the question we are discussing, or, if they have a connection, it is one that demonstrates that public Masses for the Dead were also celebrated at that time. Furthermore, the Consultor, confirming this conclusion with external arguments, and citing the previously stated definition of a public Mass (which, according to Merati in *Gavant, commentary and observations*, preface, note 38, *Ritual Romanus*, Mass, section 1, "Publica"), "is that to which both sexes are promiscuously allowed to attend, and which is performed before the people," presented several historical documents describing ecclesiastical ceremonies and funerals, such as in the letter of St. Gregory of Nyssa to Olymp, concerning this matter, to which reference may be made in St. Gregory of Tours, *De gloria martyrum*, book 1, chapter 10; Corippus, who described in verse the solemn funeral of Emperor Justinian, book 3.

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However, the Consultor drew more explicit documents from the 10th and 11th centuries, namely, concerning St. Wolfgang, Bishop, who flourished in the 10th century, whose anonymous biographer (in Surius, October 31, and Pagi, *Notitia Baroniana*, year 994, section 2) recounts: "When he had been received by St. Peter and had celebrated the vigils of Masses," and after being commended to God through these celebrations, "they carried him with great reverence to the monasteries of each city; and finally, to the church of St. Emmeran, whose honor he had always cultivated with the deepest affection. There, after the solemn Masses and funeral services had been duly performed, he was buried magnificently and honorably." Also, concerning Richard, Abbot of St. Viton, in the *Chronicles of Verdun*, and Hugues of Flavigny. Similarly, in the same 10th century, concerning...

[*Latin ed. p. 231*]

APPENDIX iv. In the funeral rites of St. Udalric, Bishop of Augsburg, as read in the Bollandist Acta, on July 4th, it is written: "After the public Mass was completed, all were reminded by (Wolfgang) in a sober and chaste manner to devoutly pray with all their heart for that holy soul, so that, freed from every bond of sins, it may deserve to enjoy eternal joy with the saints and the elect of God for all time." In this document, since explicit mention is made of a public Mass, the argument to the contrary is thereby weakened. Nor was another argument, which these authors often present, more valid: the custom of not giving the kiss of peace in Masses for the Dead, about which Bishop Albaspina wrote in the aforementioned work, I, 1, chapter 17: "And so, when the faithful were partaking in those Holy (Communion) Sacraments, no kiss was given; this omission, indeed, was a certain sign and argument of the communion of the faithful, and it was only mentioned by name, so that the faithful might prepare themselves for communion." As for whether the absence of such a kiss could lead to what these authors claim, it was necessary to show that this kiss was a condition without which the faithful could not receive communion; but, I contended, this had not been shown, and indeed, the contrary could be shown. And indeed, it is not doubtful that on the fifth day of the week, at the Lord's Supper, both the people and the clergy received communion, and yet the kiss of peace was not given, for which these authors give the following reason: "The customary kiss of peace is usually omitted on this day in Mass" (so Martene in *De antiquis ecclesiae ritibus*, Z. l. e. 13), and the vulgata (common practice) explains this with these words: "The kiss of peace, or greeting, is omitted, not because it is evil when offered out of charity, but to avoid the pestilent greeting that the traitor Judas practiced; so that it may be demonstrated how much injury Christ suffered from his disciple, and so that we may avoid doing the same injury to our brothers." The pontifical books and missals, almost all of them, agree that the kiss of peace is prohibited in Mass because of Judas' treacherous kiss. Moreover,

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it is observed that on the sixth day and on Holy Saturday, the same practice was followed for the same reason, as Amalarius and Durandus state. If one asks what the reason is for not giving the kiss of peace in Masses for the Dead, the vulgata (common practice) in Alcuin, *Liber de Divinis Officiis*, chapter 50, on funeral rites, states: "Masses for the Dead are celebrated without the Gloria and Alleluia, or the kiss of peace, which is a sign of joy." Others add the following reasons, as Durandus states in *Rationale divinorum officiorum*, I, k, chapter 53, note 8: that the souls of the faithful are no longer troubled by the cares of this world, but rest in the Lord; and in part 7, chapter 35, on the office of dying, he wrote: "Peace has a threefold reason..."

[*Latin ed. p. 232*]

232 APPENDIX x » which is not given. Firstly, because this » office, as already stated, follows the triple rite of Christ's burial, where peace is not given » because of the detestable kiss of Jude. Having removed these difficulties, the Consultor inquired whether, in the past, the faithful received Communion at Masses for the Dead. And above all, he presented two documents, which at first glance might seem to support a negative answer: firstly, he cited from the constitutions of St. William, Abbot of the monastery of Hisaug, which flourished at the end of the 11th century, in which it is written: « If » (a monk) sings the Masses for the » Dead, no one, except the priest, » receives Communion. But if it is a Mass for the living, » then peace is also given to the converted, and to those present, if anyone » wishes to receive Communion. » Secondly, in the Roman Ordinale of Peter Amelius, who lived in the 14th century, chapters 132 and 133, concerning the Office of the Dead, it is written: « Note: if the Pope » celebrates (solemnly for the Dead), neither » the Deacon nor the Subdeacon » receives Communion from the Pope's hands. » However, having omitted the first document, which the Consultor considered to be a special law of that monastery, he proceeded to examine the second. At the beginning, he observed that not everything said about the Pontifical Chapel could be extended to other churches; he confirmed this with several examples, one of which is: the same author, Amelius, in chapter 65, speaking of the Mass on a weekday at the Last Supper, wrote: « Note: after this sacrifice is completed, the » Pope receives Communion over the altar » without ministers. » And in chapter 56, « Note: the Deacon and Subdeacon » do not receive Communion today. » On the contrary, Mabillon writes in *Museum Italicum*, volume 2, Commentary, preface, on the Roman Ordinale, § 11: « Certainly, in the tenth, which we are » reading, book of the Roman Ordinale, the » priest, at the Last Supper, ... » received Communion, even without » ministers; although elsewhere, » the general Communion » was maintained. » Furthermore, drawing on strong conjectures based on what was written in the Roman Ordinale of

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the 14th century, the Consultor argued that James Cardinal Cajetan, who wrote at about the same time as Amelius, judged Amelius to have meant only the special Mass for the Dead, which the Popes of Rome did not usually celebrate solemnly. Finally, approaching the matter more closely, the Consultor demonstrated that it was customary in the past for the faithful to receive Communion at Masses for the Dead. When the faithful gathered in the early centuries of the Church to participate in the sacred mysteries, each brought his own offering of bread and wine from which he would receive Communion, so that those who received Communion from the offerings of others were rebuked, as Cyprian writes in *Liber de opere et eleemosynis*, chapter 5.

[*Latin ed. p. 233*]

Thus, he rebuked the wealthy matron: "I know that you receive the Body of the Lord." Rich and opulent, you claim to receive the Body of the Lord. Then Gregory, instead of "Do you believe that you are worthy to celebrate," said, "Because of the woman's incredulity, for you do not at all consider that one who prostrates herself in prayer among the people, comes to the Lord without sacrifice, and after rising a little, you take a portion of the Sacrifice, a piece of the bread which the poor offered." Also, the *Cataerarium* of Arles, found in the appendix of his works, states that Saint Augustine decreed: "At the time when the faithful offer their oblations, the Offertory should be sung." It is said that this was sung with several verses, of which the following is found in the second Order of the Roman Missal, number 9: "And it is fitting to read what is worthy of note after the Gospel. The Deacon, having read, greets the people, saying: 'May the Lord be with you,' and then says: 'Let us pray.' Then the Offertory is sung, as is written in the life of Saint Magnus, book 2, chapter 41: 'A certain matron, when celebrating with Blessed Gregory during the public solemnities of the Masses, offered the usual oblations.'" The Subdeacon, carrying in his right hand a paten and in his left the chalice, presented them to the celebrant, in which the oblations of the people are received. After the mysteries, as he was about to say, "May the Body of Our Lord Jesus Christ preserve your soul," she laughed lasciviously. Immediately, turning his head away from her mouth, he placed that part of the Lord's Body upon the altar. After the oblations have been offered, with the singing of the Offertory, the singers sing, and the people offer their oblations, that is, bread and wine, first the men, then the women, with white cloths. The Subdeacon, however, after the people have received the Body of the Lord, follows the Archdeacon, who is about to receive the oblations, and after him, the Pontiff, and he returns the amulae.

(1) "Papius teaches that the amulae were like small pitchers." "Amulae were vessels used by the faithful to bring wine to the altar." Zaccaria, *Onomasticon Ritual*, words "Ama, Amida."

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(2) "Fanon signifies also a white cloth or napkin in which the people offered their oblations." Zaccaria, *loc. cit.*, word "Fanon."

(3) "When the faithful received Communion under both species, in addition to the celebrant's chalice, larger chalices than those we use were also used, and these were..."

[*Latin ed. p. 234*]

234 APPENDIX IV. The Archdeacon approaches to assist. Then, rising from the seat, and while the choir is still singing, the Pontiff descends to the altar, and there he prays, and greets the altar, and receives the offerings from the hands of the Presbyters and Deacons... After the offering, incense is placed upon the altar, and the Pontiff, inclining himself slightly towards the altar, looks at the choir, and nods, indicating that they should be silent, and turns to the people, saying: "Pray, etc." When the time for Communion arrives, the Communion is sung, as is described in the second Order of Rome: "As soon as the Pontiff begins to give Communion to the people in the sanctuary, the choir immediately begins the antiphon for Communion and sings until all the people, even the women, have received Communion; then (the Pontiff) returns to his seat, and repeats the verse..." But the Pontiff, having given Communion to the people, indicates through the Subdeacon first to the choir, and he, after greeting them, says: "Glory be to the Father, and as it was in the beginning, so now and forever." And when the antiphon is finished, the Pontiff rises with the Archdeacon, and coming to the altar, he says the prayer for the completion (of the Mass).

From this, the Consultor inferred that the reason for including two Antiphons of the Offering and of Communion with verses in the Rite of the Mass was, so that the time required for the collection of the offerings and for Communion might be filled with sacred verses, so that the length of the singing might depend on the time taken to receive the offerings and to perform the Communion; and therefore, many verses of the Antiphons of the Offering and of Communion were added, and this is evident from the Antiphonary of St. Gregory. Indeed, he continued, in the same Antiphonary of St. Gregory, two different Masses for the Dead are found, and both, like the others, have the Offering and the Communion with their verses; which would not be the case if the faithful were always forbidden to receive Communion in these Masses. Moreover, in two of the oldest parchment Antiphonaries of the Gregorian chant, one of which is preserved in the Angelica Library, and the other in the Vallicellana, both in Rome, this antiphon for Communion is found: "For the sake of those for whom we offer this sacrifice, may the Body of Christ grant them eternal rest, and may perpetual light shine upon them." Therefore, the faithful were not excluded from Communion, but were called "calices maiores," and more frequently, "ministeriales," as Zaccaria states in the cited work, word "Calix."

(1) "The Senatorium was a place in the church where the Senators and

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Princes sat. It was located below the cancelli of the presbytery, on the southern side, closer to the cancelli. On the opposite side were the Matronae." Zaccaria, word "Senatorium."

(2) That is, the prayer which we call the Postcommunion, Zaccaria, words "Complenda et Postcommunionem."

[*Latin ed. p. 235*]

IV. In Masses for the Dead, although not always communicating in the same Masses, as happened even in Masses for the Living. Indeed, it is noteworthy that, over the centuries, with the gradual cessation of the offering of oblations and the abandonment of the general Communion, those who were present were, in fact, excluded from the Rite of the Mass, both at the Offertory and at Communion; whereas, in Masses for the Dead, some vestige of the most ancient rite has persisted to the present day; which, perhaps, could be considered as an indication that the custom of communicating in these Masses has been maintained. The Consultor demonstrated this from ancient Sacramentaries of Leo, Gelasius, and Gregory of that name, in which all Masses for the Dead have the following prayer after Communion. And it is a beautiful observation made by the author of the Micrologus of the 11th century, concerning the churches, with these words: "The prayer for the people is recited on the Sundays of Lent, because the prayer after Communion is usually said for those who communicate. But the people, although they meet daily during Lent, do not, as they should, communicate daily. Therefore, in order that the people may not be present at the prayer without communicating, the prayer for the people has been added, in which, not of Communion, but especially for the protection of the people, is prayed. On Sundays, however, it is not said, because all should communicate on Sundays, for whom the prayer after Communion suffices." In the same manner of reasoning, the Consultor continued, having examined the Secret Prayers found in the same ancient Sacramentary books in Masses for the Dead, in which frequent mention is made of oblations, as can be seen in Muratori's Opera Minora, volume 13, part 1, title on the Dead, § 1: "To You, Lord, we offer these sacrifices, with humble supplication, that the soul of Your servant may obtain everlasting mercy through these pious offerings." And § 4: "We beseech You, Lord, to accept our offerings, which... we humbly offer for the rest of the soul of Your servant, that Bishop, etc." Also, in the Sacramentary of the Roman Church, edited by Cardinal Thomasius, Opera omnia, volume 6, which is attributed to St. Gelasius, in book 3, § 97, it is read: "We beseech You, Lord, to accept our offerings, which we offer for the soul of Your servant; and to whom the sacrament of baptism was given, etc." Finally, in the Gregorian Sacramentary, edited by Muratori, (In ancient codices of the Sacramentaries, the pronoun "ille," "illius," "illam," etc., is always found written in place of the letter "N," which we use to indicate a proper name; compare P. Honorat, a S. Maria,

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Animadv. In reg. t. %l. 5, dissertation 3, article 4, § 4.)

[*Latin ed. p. 236*]

236 APPENDIX IV, in the aforementioned passage, paragraphs 2 and 3, number 113, it is written: "May the Lord accept our supplications, and may these offerings, which...are offered for the souls of all the faithful Catholics, whose names appear before your holy altar, be consecrated to your name, etc." Furthermore, the Consultor stated that the offerings and the Communion are related to each other, as was established in canon 28 of the Council of Libriati, celebrated in the fourth century: "It was decided that the Bishop should not receive offerings from one who does not communicate." Therefore, Cardinal Bona wrote in *Rerum liturg.*, book 2, chapter 8, section 5: "All those who attended Mass and received Communion also offered bread and wine from which the Eucharist was made; and therefore, along with the right to communicate, there was also the right to offer." Even Sala, who, to the best of his ability, maintained the opinion that Communion was not given at Masses for the Dead, was compelled to admit this principle in the *Notae* on Cardinal Bona's book 2, chapter 9, section 2, although he foolishly denied that offerings had a place in Masses for the Dead. With these observations, the Consultor concluded this part of the dissertation with what is narrated by Saint Gregory in book 2 of the *Dialogues*, chapter 23. There, he recounts that Saint Benedict, wishing to restrain the loquacity of two religious women, commanded them to say this: "Correct your tongues; for if you do not amend, I excommunicate you." But those (religious women) remained unchanged in their former habits, and died within a few days, and were buried in that church. When the solemnities of Mass were celebrated in the same church, and as was customary, the Deacon cried out: "If anyone does not communicate, let him leave the place," the nurse of those...saw them emerge and go out of their tombs and out of the church. And as she often saw this...she recalled what that man of God (Benedict) had commanded them while they were still living. Then, that servant of God, with great sorrow, indicated this; and he immediately offered an offering, saying: "Go, and have this offering offered to the Lord for them, and they will not be excommunicated any longer." And when that offering had been immolated, and the Deacon, according to custom, cried out that those who did not communicate should leave the church, they were no longer seen to leave the church. In this document, the Consultor asserted, it is certain that we are dealing with a public Mass for the Dead; such Masses have long been and often celebrated; and furthermore, in that Mass, just as in Masses for the living, those who did not communicate were invited to leave the place and make room for those who did communicate, it is manifest that the sacred Eucharist was administered to the faithful in public Masses for the Dead as early as the

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sixth century.

[*Latin ed. p. 237*]

237 APPENDIX. V. CONCERNING THE CONDITION FOR INSCRIBING THE NAMES OF THE FAITHFUL WHO ARE ADMITTED INTO THE CARMELITE CONFRATERNITY IN THE REGISTER OF BROTHERS. From ancient times, the condition for inscribing the names of the faithful who are admitted into the Carmelite Sodalitas in the register of Brothers has been considered necessary. However, it can be asked whether this inscription of names is necessary for the very essence of the matter, so that without it, no one can be considered a Carmelite Brother; or rather, whether it is necessary for the integrity of the matter. It seems to me necessary for the integrity of the matter. For there is a distinction between the material inscription of names and the reception into the Confraternity. The material inscription of names is nothing other than a permanent testimony of the reception given by him who admits into the sodalitas; and this testimony, according to the nature of any sodalitas, can be more or less necessary or useful for achieving certain effects. Indeed, this inscription, since it is nothing other than a testimony of membership, can always be supplemented by another document, such as a diploma, which is given to the Brother. The same cannot be said of the reception into the Confraternity. For the act of reception pertains to the very essence of the matter. For no one can be called a Brother or a member, unless he has been received into the sodalitas. The formal act of reception consists in the act by which a designated priest demonstrates his authoritative will to receive into the Confraternity the one who requests it. Therefore, the act of reception pertains to the very essence of the matter: the inscription of names, whenever it is prescribed, is necessary for the integrity of the reception. Furthermore, it seems to me that the Decree cited above on page 220 should be understood in this sense. For when it was asked: "Is the inscription of the faithful into the Carmelite Confraternity, which is done by priests who indeed have the power, but not having observed the form described in the Ritual and Breviary of the Order of Carmelites," the Sacred Congregation responded: "Affirmatively, provided that the priests who have the power do not fail in the essential things; namely, in the blessing and the imposition of the habit, and in the reception into the Confraternity." Since, however, in the Carmelite Sodalitas, and also in most other sodalities of this kind, it is at least customary for the faithful to be inscribed in the register of Brothers, legitimately designated priests...

[*Latin ed. p. 238*]

238 APPENDIX V. concerning the admission of individuals into the Carmelite Confraternities, that if Confraternities have been previously established, they would not adequately fulfill their purpose if the Carmelite

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Fathers could not bestow upon them the holy scapular of their Order, so that they might wear it, provided they do not light it.

It is not to be understood that those who are admitted to the Confraternity of the Discalced are thereby considered to be members, and that they receive the same indulgences, privileges, and other spiritual graces and benefits that were specially granted to the Fathers of the Discalced Order on April 30, 1838, because of certain additions made by them to the aforementioned document. For Pope Paul V did not dispense with everything contained in it, but supplemented all defects, both of law and of fact, as the aforementioned Congregations had already done through other additions. Pope Paul V decreed, using these very words: "And the Brothers are to observe."

The aforementioned letters were given by His Holiness Pope Paul V to the Carmelite Fathers in the form of a Brief on April 24, 1617, and are found in the Bullarium of the Discalced Carmelite Order, volume 2, page 373. In the year 1838, the General of the same Order, in Italy, and the General Procurator of the Discalced Carmelite Congregation of Spain, inserted and confirmed an instrument of a certain Convention between the General Congregation of the Carmelites in Italy and the General Procurator of the Discalced Carmelite Congregation of Spain; in this instrument, these words are found: "It has happened and is happening that, in the Catholic kingdoms, where monasteries of the Order abound, it is easy to admit individuals to the scapular, or at least to establish a Confraternity at a reasonable distance from the monastery of the Blessed Virgin Mary of Mount Carmel, so that the Discalced Fathers may grant the holy scapular to those who request it, and admit members in such a way that, by this very act, they are considered to be members of the Confraternity of the Fathers, and to enjoy the indulgences granted to them, especially by His Holiness Pope Paul V, and to receive the same indulgences, privileges, and other spiritual graces and benefits, as those who are described or who describe themselves in the Confraternity. And in these present days, because of the lack of houses of the Carmelite Order, and because of the frequent..."

[*Latin ed. p. 239*]

The petitioner requests clarification, noting that it is often difficult, and sometimes impossible, to promptly register the names of new members in any canonically established Carmelite confraternity. This raises the question of whether, due to the absence of such registration, the faithful are deprived of the sacred indulgences, especially considering those who hold that the inscription of a new member's name in the confraternity's records is an essential condition for obtaining these indulgences. "Therefore, he implores His Holiness to deign to grant (according to the aforementioned and approved convention by Paul V) that the faithful, receiving the sacred scapular from the Superiors of the Order or from any priest with their

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authority, be considered members of a confraternity already canonically established in the place where the scapular is first bestowed upon them, even without any material inscription of their name in the confraternity's records; or (if no Carmelite confraternity is yet established in that place, city, or town), that they be considered members of the nearest confraternity, and that, as members of that confraternity, they may enjoy the indulgences, privileges, benefits, spiritual graces, and dispensations granted by the Most Holy Popes to the members of the Carmelite Order who wear the sacred scapular."

RESPONSE: - From the audience of His Holiness on April 30, 1838 - His Holiness, Pope Gregory XVI, having considered the particular circumstances and, after prior deliberation, grants, with paternal benevolence, everything requested, with the reservation that, in all other respects, the customary procedures be observed, notwithstanding any contrary provisions. This present decree is valid forever, without any need for a brief to be issued. Given in Rome, from the Secretariat of the Holy Congregation for Indulgences.

From these documents, it is clear that it was customary in Carmelite confraternities to register the names of new members in the records of the confraternity, as is also the practice in other confraternities of this kind. Indeed, when certain indulgences were granted to those who were registered or were to be registered, and when, due to some impediment, the registration was delayed or prevented, a doubt arose as to whether the faithful whose names were not recorded in the confraternity's records would still be able to obtain those same indulgences. This doubt was resolved by an Apostolic Indult, which remedied all such deficiencies. However, for the sake of greater clarity, it will not be amiss to consider the matter juridically. This doubt appears to pertain only to those indulgences that were granted to those who were registered or were to be registered in the Carmelite confraternity, namely, whether they were tied to the material inscription of names, or otherwise. If the points noted above are applied here, the following could be said: either from the Apostolic letters (which we do not have before us)...

[*Latin ed. p. 240*]

24fr Perhaps someone might say: Can the Holy Father, by the possibility of granting indulgences, extend them to that place where a confraternity has been established for those attached to it, so that the confraternity may be found? For if those attached to it were not registered, that is, if their names were not actually recorded in the books of the confraternity, would they truly be in the same condition as those whose names are recorded, and thus be able to receive the indulgences? And would this pertain to the reception of the indulgences, or not? But perhaps you will say: If the inscription of names in a confraternity is something that can be omitted, is

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it not necessary or useful for achieving certain effects, such as the granting of indulgences? Therefore, it is more probable that the indulgences were granted to confraters attached to or about to be attached to the confraternity, namely, through the blessing and the imposition of the habit. To which I reply: In this very blessing and imposition of the habit, understood as "attached to," it is understood that they are legitimately co-opted, legitimately received into the confraternity; that is, the reception consists in the formal act of receiving, or admitting, whether it is done with words such as "I receive you," "I admit you into the confraternity," and the like, which are found in the formulas, or even by actions that themselves signify or necessarily imply reception. And in this case, the confraters would gain the indulgences, even if the priest had omitted to write their names in the book of the confraternity, either through negligence or difficulty.

[*Latin ed. p. 241*]

241 FROM S, THE CONGREGATION OF THE COUNCIL. ON MARRIAGE. July 13, 1868. In the proceedings of matrimonial causes, constructed according to the form of the Sacred Canons, we find, through the judgment of the Defender of the Marriage, appointed by office in Rome, that he not only could not find anything contrary, but was indeed compelled to praise [the parties involved]. The proceedings were conducted in the Neapolitan Court, which we name for the sake of honor. Although the proceedings were completed according to all prescribed and suitable forms, the case is so entangled with fraud and lies that, considering brevity, we have not without difficulty been able to ascertain the facts, which we will now present for a correct understanding of the case. Summary of the facts. Caecilia, born in Naples, is said to have married a man associated with Garibaldi; in the year 1860, she remained a widow, and for some time resided in her mother's house; afterwards, she fled and lived with Livio, also said to be associated with Garibaldi. They lived together in such a manner that they appeared as husband and wife, or at least as brother and sister. Thus, joined together, they successively occupied various houses until Livio seemed to have established a stable home for himself in the house of A, which he rented for a year, that is, from May 4, 1865, to May 4, 1866; however, they did not remain in that house and parish for the entire year, as we shall say. Caecilia and Livio, having not found sufficient satisfaction in this "way of life," desired something more. There was in the same city a young man named Sempronius, who, having been orphaned by his father in the same year, 1865, inherited a considerable estate. Livio, with the instigation of Caecilia, left nothing undone to persuade Sempronius to take Caecilia as his wife. Caecilia was at that time in the thirtieth year of her age; already a widow and with

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corrupted morals, she was not ashamed to... [The text is incomplete].

[*Latin ed. p. 242*]

242. MARRIAGES. Let public documents rejoice at the marriage; nor did Livius boast of himself as the protector and guardian of the honor of Caecilia. But since in those places, young people were not permitted to contract marriage unless the consent of their parents was added; this was the first difficulty to be overcome: for the mother of Sempronius, who was younger in age, would never have certainly consented to this marriage. In order to overcome this difficulty, every effort was made to ensure that the mother of Sempronius knew absolutely nothing about her son's marriage to Caecilia. For Sempronius, who seemed to have found a treasure in Caecilia, remained silent about everything; and Livius, constantly urging Sempronius to remain silent, devised a plan to leave the house of A., in which, as I said, Livius and Caecilia had previously resided, and which Sempronius only frequented during the day, while he spent the night at his mother's house. This plan was adopted both so that this daily presence might not arouse suspicion in the mother, should it reach her ears (which was not difficult, given the people living in the neighborhood), and especially so that the marriage might be celebrated in a new parish before an unknown priest, for the same reason. Therefore, they left the house of A., taking with them some of their belongings and the key to the house; the remaining belongings they left behind, which were later removed after the marriage had already been celebrated. These events occurred in the month of January 1866; it remains uncertain whether these events occurred at the beginning or in the middle of January: some and many testify that these events occurred on the 14th or 15th of January; others, however, say that they occurred on the 4th of January. They then went to another parish in which, it seems, Sempronius had previously rented a house, which, however, they abandoned after a few days because it was too uncomfortable; then they went to a certain inn: that house seems to have been rented for three and a half months, with the full price paid in one sum in advance, while the inn was for fifteen days, although they did not stay there for more than eight days before the marriage. During this interval of days, almost everything was completed quickly so that the matter would remain unknown to Sempronius' mother and would be carried out simultaneously. At the Curia, a document of freedom from marriage had been obtained through witnesses, some of whom were true and some of whom were false, although, by chance, they said "lestimo-".

[*Latin ed. p. 243*]

OF MARRIAGES. 243. A true story: Two women, with incredible audacity and ease, as if they were mothers, one of Cecilia, the other of Sempronius, gave their consent for the marriage of their most beloved daughter, or

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son. They believed that the spouses, the mother who had not consented to the marriage, would, after the marriage was celebrated, themselves consent to it. Thus, with all matters arranged with great haste, announcements were made in the church for three successive days, and the marriage was celebrated on January 22nd or 23rd, 1868, before an unknown priest and witnesses who even assumed a false name. After the marriage was celebrated, and all matters were settled for the removal of the remaining furniture from the former house of A., and the key was returned, which would unlock the annual rent and lease payments to the Garibaldian Livio, they set out for other cities in Italy, at the expense of the same Sempronius, and spent three months wandering for pleasure. Upon returning to their own city, they lived in houses different from their former ones: Sempronius, who had previously told his mother that he would travel through Italy with friends, now also spent the day in the house with his wife, but at night he returned to his father's house. Meanwhile, a disagreement arose between him and Livio: but when Sempronius then tried to separate his wife from Livio, in whose custody she remained, the wife herself disappeared from his sight, and he no longer found her in her established dwelling: for she had fled with Livio. Then Sempronius, recognizing that he had been deceived and misled, revealed everything to his mother, who, at her urging, brought this matter before the Metropolitan Court; which, after the proceedings were completed, judged the marriage to be null and void due to its clandestine nature. Appealing, the defender of the marriage before the same Court, according to the aforementioned rules, caused the case to be judged in a second instance in the Holy Congregation of the Council. DISPUTATION. DEFENSE OF SEMPRONIUS. — The defender of Sempronius, in presenting his account of the case, was entirely focused on demonstrating that Cecilia had her true domicile in house A, and that she had left it, not abandoning it, in order to contract a marriage in a new parish.

[*Latin ed. p. 244*]

244. MARRIAGES. The period during which she remained was either eight days, or, according to what others have stated, twenty-nine days. This was a matter of great importance to demonstrate in the present difficult case, which, although perhaps appearing easy at first glance, was not so: for, since the marriage was celebrated in a place where they had not yet abandoned their previous residence, and the woman could not yet be considered "vaga"; and since they had not acquired a new domicile, nor even a quasi-domicile, in a new parish, the marriage was null due to the absence of the proper domicile of either of the spouses. Having thus set forth the facts, the Defender applied the teaching of the Holy Congregation, which Benedict XIV refers to among others in *Inst.* 33, n. 8, and also, when he was Holy Father, in the Constitution *Paucis ab hinc*, in which he laid down the rule that the Holy Congregation

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followed in accordance with Fagnanus in *Cap. De Parodi*, n. 39, where it is written: "Those from Traiectenses, fearing an impediment from their parents, had gone to the city of Aachen; the Holy Congregation, consulted about the validity of the marriage, decided that the time during which the contracting parties remained in Aachen should be considered, and that if it was at least one month, a decision should be made regarding the validity." In the present case, since the spouses had left their own parishes in order to avoid an impediment that their mother would have brought about, and since they had moved to a new parish and remained there for only eight days, it was clear, according to the teaching of the Holy Congregation, that the marriage should not be considered valid. Having made these extensive observations, the Defender proceeded to address another difficulty, namely the claim based on the absence of a domicile, as if Cecilia were to be considered "vaga." He rightly noted that both Livius in his formal examination, and Cecilia in her second judicial confession, but not in the first, had stated the matter so carefully as to suggest that they were to be considered "vaga," as if they had no domicile except where they actually resided. However, the Defender pointed out that it is difficult for anyone to be without a domicile. As Paul says in L. 27 ff. ad Municip. §. 2: "It is difficult for anyone to be without a domicile; and I believe that this can also apply if someone, having left his domicile, sets sail or travels, seeking where he may find lodging and where he may remain; for I consider such a person to be without a domicile."

[*Latin ed. p. 245*]

MATRIMONY. 245. The Doctors adorn the text; thus Barbosa, Collect. Doct. in Conc. Trid. sess. 24 de Ref. c. 8 §. 2: "Those are properly called vagabonds, who have no certain dwelling, or who, having entirely abandoned their former dwelling, wander about or strive with their mind to acquire a new one." Also, Berardi, Comm. ad ius univer. diss. 5 de form. coniugior. "We call those vagrants, who, by deed and by mind, have deserted their dwelling, establishing no station anywhere, migrating hither and thither without any intention of remaining." From this teaching of the Canonists, the Defender observed: that to show that the woman in the present case can be called a vagrant, it must be shown that she did not have several dwellings before the marriage; but that she had no dwelling at all. On the contrary, Cecilia, in her first examination, admitted that eight days before the marriage she had moved to a lodging, departing from her own and real dwelling; it is certain that, before the marriage, she left household goods in the house of A; and that, after the marriage, in the month of January, they were moved; and that she retained the key to the house, which was not returned immediately after the marriage, but much later. However, the Orator stated that this was done with the intention that, if the marriage could not be contracted for some impediment, she could return

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to that dwelling; therefore, she also lacked the intention of abandoning that dwelling at the time when the marriage was being attempted fraudulently. Furthermore, he maintained that Cecilia cannot be considered a vagrant, as if she had never had a dwelling during her widowhood; for it was observed that Cecilia always remained with Livius as a mistress with a master, or conversely, Livius always remained with Cecilia. But even assuming the previous hypothesis, that the woman remained with Livius, it must be noted that, in this case, the principles of law apply which state: that those who are in the service of, or are attached to someone for any other reason, can contract marriage where they serve, as Maschat states in Lib. 4 tit. 3 n. 19 Inst. can., adhering to the Resolutions of the Holy See related by Benedict XIV in the aforementioned Institutes: "The Praetor, Judge, temporary Doctor, Professor of some faculty, and servants can contract marriage before the Parish Priest of the place within whose parish boundaries they live, even if they are foreigners." Also, Berardi, loc. citat, diss. 5. "Thus, also, anyone who..."

[*Latin ed. p. 246*]

246. MARRIAGES. "Those who reside in a certain house are bound to the parish to which they belong, and they must present themselves before the parish priest. It matters little in this matter whether the parish is infamous or reputable. However, he concluded his argument by recalling that this concerned a young woman surrounded by deceptions; for it was not she who was sought, but her wealth, so that Livius and Caecilia might lead a more comfortable and immoral life; and one owes no support to deceit and fraud.

DEFENSE OF MARRIAGE. — On the contrary, the defender of the marriage was entirely focused on demonstrating that Caecilia had completely abandoned her domicile in the house of A, and therefore, by the very act of establishing a new dwelling with a deliberate intention in another parish, she had acquired a new domicile; in this case, the discussion about the time necessary to acquire a domicile is superfluous, since it is acquired by the very act; and if this were denied, he argued, Caecilia had sufficiently acquired a domicile in the new parish, and therefore, the woman, being considered as if she were a vagrant, could validly contract marriage before any parish priest.

Before addressing these two points, the defender recalled the doctrine commonly taught regarding domicile in relation to parochial rights: that is, to distinguish between the domicile of origin and the domicile of habitation, since the former is immutable, while the latter is changeable; and that there are four cases concerning the domicile of habitation: first, when someone resides in a parish, establishing their domicile there, in which case it is certain that they become a member of that parish; second, when someone has no fixed domicile and is a vagrant, which will be discussed

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below; third, when someone has a domicile in a town or city and leaves, intending to return shortly to their own domicile, as if for recreation or to engage in rural activities, in which case it is certain that they remain a member of the parish of the town or city and not of the parish to which they go, chapter Is, who, concerning burials, in 6°, where it is written: "He who has a domicile in a city or town, when he sometimes transfers himself to a rural village for recreation, or to engage in rural activities, if he does not have a designated burial place (the canonists apply this case of burial to marriage) must be buried not in the church of that village, but in his own parishial church..."; fourth, finally, the case is when someone has a domicile in one place and moves to another to reside there for a certain time for the purpose of expediting some business, as in the case of..."

[*Latin ed. p. 247*]

MARRIAGES. 247. The person should return to their proper dwelling; thus, students are in the place of study, laborers in the house of their employer, solicitors in the court, and the like. However, in the final instance, the entire matter presents a great difficulty, namely, whether, by reason of this temporary residence, someone can become a parishioner in that parish, so that the pastor of that parish can be considered to be his proper pastor for the purpose of contracting marriage. And indeed, in the final instance, it is necessary to consider whether others are required to establish their domicile there, so that if this intention is not present, the third case indicated should apply: others, on the contrary, are required to acquire all the rights of a parishioner by reason of their residence, when this residence is not to be terminated in a short time due to the completion of a business; this second opinion is the doctrine of Frederick of Senis, frequently cited by canonists in *Consuetudines* 254, beginning with the subsequent question, verse. This author adds that it cannot be argued that the right of the parish is subject to the right of domicile, because the right of the parish considers the present state, that is, the present residence; and the same author concludes that one is considered a parishioner who resides in a parish with the intention of remaining there, even if not with the intention of establishing a domicile. However, whether one should adhere to the first or second opinion, Sánchez teaches in *De Matrim.* I. 3, *de consuetudinibus clandestinis*, disp. 22, n. 13: "It is concluded: although the former opinion is very probable, the latter pleases me more as being truer." For it seems harsh to me that students and others who reside in a diocese for the greater part of the year, indeed, for many years, cannot be joined in marriage and buried there, unless they are subject to the canonical portion in that *rochia* where they die, and cannot obtain dispensations there for vows and other matters. And thus, I believe that, with the exception of the sacrament of Orders, anyone becomes a parishioner and subject to a particular diocese when they reside there for the greater part of the year. And in n. 14, the

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same author continues: "Hence, it follows that it is not necessary to wait until someone has resided in a parish or diocese for the greater part of the year, but as soon as they have the intention of residing there for the greater part of the year, they begin to reside there, they become parishioners, and everything said about them can be exercised." Just as for domicile, no period of residence is required, but it is effective immediately.

[*Latin ed. p. 248*]

248. OF MARRIAGES. "It begins to reside in the soul, having the intention of residing for the entire time, which is established by the parish priest." Having explained this doctrine, the Defender, rather inclined to play than to seriously dispute, added: "The opposing party must concede that Cecilia left her own home, and in the beginning of the month of January, moved to another parish, where she chose a dwelling in order to expedite some business, so that, once that business was completed, she would return to her home; this is a case considered by Frederick of Senis, in which it is deemed valid the marriage contracted there. But the business to be expedited was the very marriage itself, to be celebrated safely with Sempronius, so that the mother's dissent would be avoided." But then the Orator rose to show that it is certain, with the greatest facility, that Cecilia had changed her dwelling place several times before; and that she had remained in the very house A, which her lover had rented for a year, for only eight months, and not continuously; that she had indeed left it when she moved to the new parish, so that she had never had the intention of returning to that dwelling, as she and other witnesses have testified in court; and that she had the intention of establishing a new dwelling, having taken her belongings and retaining the key, so that, upon receiving the deed later, she returned it. But in this case, it is futile to inquire about the time she spent in the new parish, since the intention and the act of acquiring a dwelling are immediate: the act of establishing a dwelling and the intention of establishing a new dwelling there were present in the present case, as the Parish Priest also testified in court with these words: "According to what the spouses themselves asserted, they had a dwelling in the house of my parish." Furthermore, the spouses themselves confessed in court that they had changed their dwelling and established a new one, so that they could contract the marriage with Sempronius, despite the mother's dissent. And do not say that these things were done fraudulently, against the proper Parish Priest and the law of Trent; for it cannot be said that one acts fraudulently when using his own right; and everyone has the right to change his dwelling. Having embellished all these things with various authorities, the Defender proceeded to the second point of the question: that is, he argued that Cecilia should be considered to be residing, if she had not established a dwelling in the new parish. To demonstrate this, he pointed out that two things are required to establish residence: first, that

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the dwelling be abandoned;

[*Latin ed. p. 249*]

MATRIMONY. 249, according to the principle that she has not acquired another [home]; hence, those who are wanderers are so called because they do not abandon their dwelling, since they intend to return to it. Concerning the contention that Caecilia was a wanderer, the Defender recalled the following: Before her first marriage, she resided in her mother's home; after contracting marriage with a Garibaldian man, she left that home; after the death of that man in the year 1860, she lost the home of her husband and returned to her mother, from whom, fleeing, she never returned; then she went to another house in which she resided for five months; afterwards, she lived in the house of A., of which we have spoken, and remained there for eight months; she left that house and went to another parish, to a house which, according to what Caecilia stated, Sempronius, with the consent of Livius, had rented for four months, where she remained for eight days, and then went to an inn where she had stayed for eight days before the marriage, and that inn she rented for fifteen days, so that, after the marriage was celebrated, they intended to leave immediately. Having recounted these continuous changes of residence, it was observed that Caecilia had nowhere intended to remain, but was driven hither and thither, like cattle, serving the inclination of the Garibaldian man; hence, it was concluded that, from the year 1860 onwards, she had never acquired a permanent home; therefore, the marriage could have been valid before any Parish Priest. After these and other arguments were presented and debated extensively, it was decided to resolve the question: "Whether the opinion of the Archdiocesan Tribunal of Neapolis should be confirmed or rejected in this case." RESOLUTION. — The Sacred Congregation of the Council, on June 13, 1868, responded: "The opinion is to be confirmed." From this, we gather: I. A woman who, indulging in lewdness, readily gives herself to a man, acquires the home of that man. II. He cannot be said to be without a home who easily changes his residence and does not strive to establish a stable one for himself, although this may seem to approach the character of a wanderer to a greater or lesser extent.

[*Latin ed. p. 250*]

250. MARRIAGES. III. Those who depart from their own parish and go to another parish should contract marriage only there, provided they have not previously established any canonical domicile there, either actually or presumptively; otherwise, they cannot validly contract marriage there (1). IV. It is of no consequence whether, after the marriage has been celebrated, the spouses intend to return to the domicile from which they departed, provided that, at the time of the marriage, they have not fully abandoned their former domicile.

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CELEBRATION OF MASSES. On February 1, 1868, a summary of facts. Within the boundaries of the diocese, there was a rural church dedicated to Saint Michael the Archangel, which was established as a parish much later, in which the chaplain celebrated Mass on feast days for the benefit of the rural inhabitants. Not far away was a small chapel with an image of the Blessed Virgin Mary. In the late 17th century, piety towards this sacred image and the frequency of visits by the rural inhabitants increased to such an extent that a certain pious canon was moved to build a church, with attached chapels for the use and residence of a chaplain to be chosen by him, with the authority of the Bishop. In this new church, both the aforementioned canon and the chaplain began to celebrate Mass on certain feast days. But since the zeal and example of priests are the most powerful means of moving the hearts of the faithful to consider their spiritual needs, and to seek them out after having tasted their benefits; in the year 1726, some farmers living near the new church, desiring to benefit from the ministrations of the clergy, and also for the benefit of the entire community (for there was a large population there, and not all families could attend the same Mass sacrifice), met with the aforementioned canon, so that on every feast day, Mass would be celebrated in that church early in the morning, and before the customary Mass was celebrated in...

[*Latin ed. p. 251*]

CELEBRATION OF THE MASSES. 251 In the church of St. Angel: they obligated themselves to give each year a certain measure of grain to the aforementioned Canon, as patron of the church, for a chaplain to be chosen by him or his, who would celebrate the Mass, with the understanding that both parties would retain the free power to withdraw from the obligation. This agreement or convention was immediately put into effect. In the meantime, on May 18, 1737, the aforementioned Canon died, having made his will the previous month, in which he bequeathed the aforementioned church as his universal heir, under the condition that three canonries and the dignity of archdeacon be established in the cathedral church; to these canons, he imposed the duty of providing a sufficient number of Masses to be celebrated in the new church, but he did not explicitly stipulate that a Mass be celebrated on feast days according to the aforementioned convention; finally, he requested the Bishop of the time to be the special executor of the will, granting him all the necessary and appropriate powers to make changes, and as if he were the testator himself, and to regulate all that he himself could not foresee. The Bishop, according to the powers granted, did not consider it appropriate to immediately put this last will into effect, since the inheritance burdened the estate with a large sum of money. Finally, in the year 1781, the Bishop of that time, during the actual canonical visitation, instead of the three canonries and the dignity, established four perpetual chaplaincies with all the duties and revenues left by the Canon, and this

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change in the will was approved by Benedict XIV. With these established, one of the aforementioned chaplains, for the benefit of the people, began to regularly celebrate Mass on feast days in the new church of St. Mary. In the year 1855, the Bishop of that time decreed that Mass should be celebrated early in the morning on feast days in the parish church of St. Michael, and only later in the church of St. Mary. However, this decree does not appear to have been put into effect. In the year 1864, the Bishop decreed that Mass should be celebrated in the church of St. Mary two hours after the parish Mass; however, this decree was ordered to be observed under penalty of suspension for the chaplain who, in that year, was responsible for the aforementioned celebrations.

[*Latin ed. p. 252*]

252 CELEBRATIONIS MISSARUM. The chaplain protested, and the matter came before the Sacred Congregation. Prayers were also sent on behalf of the families of that region, in whose favor the Mass was celebrated according to the original agreement. The Bishop was questioned about the matter, and he was to report both on the rights of the chaplain and on the prayers of the inhabitants. In addition to the legal considerations, which are discussed in a summary below, the Bishop explained that he had acted to remove the uncertainty and confusion among the faithful regarding this matter, which had arisen frequently. He stated that this decree had been communicated to the chaplain, who informed him that he was relinquishing the chaplaincy. He had appointed another priest to take his place, to be compensated by the alms of the rural population, who had provided him with little or nothing for his labors; and therefore, he had ceased celebrating Mass in that church. Furthermore, the Bishop stated that the parish priest of Saint Michael had often called another priest to celebrate Mass in the parish church itself. The Bishop also pointed out that within the boundaries of the same parish, another rural church was to be found, in which the Holy Sacrifice was celebrated on each festive day, so that those living in the countryside could fulfill their obligation. However, the rural chaplaincy of Saint Mary was distinct from the four chaplains mentioned. The office of this rural chaplaincy had not been burdened, since, with the death of the canon, the testator's family ceased to provide for it. The Bishop, by virtue of his ordinary jurisdiction or by virtue of the aforementioned will, could appoint a chaplain to celebrate Mass in that public church of Saint Mary. The agreement reached in 1726, whether due to the will or due to the obstinacy of the villagers in not compensating the chaplain, had come to an end, etc. Summary of the arguments. THOSE THAT FAVORED THE BISHOP. It was noted that the canon, in the will, had given the Bishop full power to dispose of things as he deemed best, as if he himself were the testator. However, it was argued that, given this power, the established chaplains and attached legacies did not have a firm legal basis; therefore,

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the canonical laws that prohibit the alteration of the founders' intentions could not be invoked. Indeed, in the present case, since the matter concerned the Masses of the rural chaplaincy, it was observed that the Bishop could prohibit the celebration of Mass.

[*Latin ed. p. 253*]

CELEBRATION OF MASSES. 253 Before the parish priest celebrates Mass, the celebration should be held at a time convenient for the people, as Ferraris reports in *Bibliotheca canonica*, verb. *Missa*, art. 5, n. 3 and 4, where it is written: "It is permissible," but the Bishop, by a Synodal decree, may determine that on feast days, "Masses should not be celebrated in chapels and rural churches, unless Mass has been celebrated in the parish church, as declared by the Sacred Congregation of Councils in Agde on May 25, 1652, etc.," but in such a way that the parish Mass is celebrated at a suitable time. And Benedict XIV, in his work *De Synodo, dioecesis I*, ch. 7, n. 7, also notes: "Finally, it must be noted that, at times, responses have been issued by the Congregations of the City, which, although conforming to the law, do not invalidate the contrary statutes of the Synods, which are sometimes in force for just reasons, nor do they excuse anyone from observing them in the future. Thus, although the Sacred Congregation of Susceptibility has often decided that, strictly speaking, the parish priest cannot be forbidden from celebrating Mass in public chapels located within the boundaries of his parish before the parish Mass, nevertheless, if the Bishop has ordered otherwise, either in the Synod or outside of it, in order that the people may not be kept away from the parish Mass and the sermon that is usually held by the parish priest, the Bishop's order will prevail, and it must be obeyed, even according to the opinion of the same Sacred Congregation, which on May 25, 1652, responded: 'Synodal constitutions that prescribe that Masses should not be celebrated in other churches, unless Mass has been celebrated in the parish church, are to be observed.' And when the Sacred Congregation was asked in Forlivien on November 18, 1684: 'Can the Beneficiary or Rector celebrate Mass in his church of Saint Mary before the Mass celebrated by the parish priest?' The response was: 'Affirmatively, unless the Bishop has reasonably arranged otherwise.' Furthermore, the resolution of the Sacred Congregation of Councils in the Lucanian Chapel on September 17, 1722, which it is expedient to refer to here in summary, should be recalled, so that the value of these resolutions may be better understood. The question was about a pious will, entrusted for execution, in which the testator had ordered that a chapel be built in his villa and that Mass be celebrated daily there, and that the feast of Saint Anne be celebrated: the executors of the will petitioned the Bishop for permission to build the chapel. Since the parish priest opposed this construction, the Bishop did not grant permission, for the reason that the

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villagers would come to hear the Mass.

[*Latin ed. p. 254*]

254 CELEBRATIONIS MISSARUM. In ecclesiis eiusmodi, et praesertim diebus festis, non audiebant verba salutaria a Parocho, nec a eo instituebantur in iis, quae scire omnibus est necessarium, juxta cap. 2, Sessio V, Concilii Tridentini, de Reformatione. Sed Episcopus, Missae quotidianae celebrationem vel esse transferendam in paroecialem ecclesiam, vel permissa ecclesiolae constructione, rem sic componere posse, ut eadem Missa diebus festis de praecepto celebraretur in ecclesia paroeciali. Sacra Congregatio, antequam rem definiret, rogavit Episcopum ut referret: 1° super distantiam paroeciae a novo Oratorio; 2° super numero Missarum, quae in paroeciali ecclesia celebrabantur; 3° super numero paroecianorum; et 4° an aliqui paroeciani longe distarent a paroeciali ecclesia. Episcopus rescripsit: locum Oratorii distare quarta parte milliarii; duas Missas celebrari in paroecia diebus festis de praecepto; paroecianos esse 270; domum magis a paroecia remotam distare versus orientem dimidio milliario, et versus occidentem quarta milliarii parte, ubi Oratorium esset conspuendum. Itaque Sacra Congregatio, reclamationi per summaria precum expositae die 7 Decemb. 1720, respondit pro facultate construendi ecclesiam et in ea celebrandi Missam diebus ferialibus, ita tamen, ut Missa diebus festis de praecepto in paroeciali ecclesia celebraretur. Reclamantibus iterum exsecutoriis testamentariis, respondit die 13 Septemb. 1721: In decisis. Rescripta haec prodierunt inter summaria precum, quae in plena Congregatione perlectae fuerunt: cum autem dicti exsecutores instarent, ut causa proponeretur in folio, propositum fuit dubium: «an sit standum vel recedendum a decisis in casu.» Ex officio adnotabatur, militare pro persistentia in decisis rationes ab Episcopo adductas, qui in concedenda venia erigendi Oratorium inquirere debet, an Populus nimium abstrahatur ab ecclesia paroeciali et sic incidat in ignorantiam circa credenda et observanda. *Petra ad Constitutiones Apostolicas, t. i, pag. 390, ra. 69; Monacelli Formularium, U 2, pag. 52, n. 42: pro recessu vero a decisis, militare, quod ecclesiola ad placitum non aedificaretur, sed in exsecutionem ultimae voluntatis; quod non esset de necessitate praecepti audire Missam diebus festis in ecclesia paroeciali; quod alia passim haberentur Oratoria in dioecesi Lucana; quod maiori populi commodo cederet ad Sacrum audiendum; quod Capellanus o...

[*Latin ed. p. 255*]

CELEBRATION OF MASSES. 255 It was possible for him to grant to the faithful in the oratory what the parish priest could grant in the parish; and if the Holy Congregation had granted the faculty of celebrating in a similar oratory, the clause would be added: without prejudice to parochial rights. Therefore, regarding the aforementioned doubt, presented on September 17, 1722, the Holy Congregation responded: In the decrees, except for the

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feast of Saint Anne, and furthermore. This was observed because of that reason in Lucania. Furthermore, it was observed that this faculty of the prelates did not only refer to oratories being erected, but also to those already erected, as in Breda on February 22, 1862. Finally. This faculty was also used by Benedict XIV when he was Archbishop of Bologna, Inst. eccl. hist. 8, who, for the aforementioned reasons, also prohibited the celebration of Mass on feast days in some rural churches located within a thousand paces of the parish. DEFENSE OF THE CHAPLAIN AND FARMERS. In the narration of these events, the orator initially noted that the canon, as a witness, had greatly favored, both in life and in death through his will, that oratory and the convenience of the surrounding farmers; that the agreement initiated in 1726 had been strictly observed, and that he had obligated his heirs to erect canons, so that a canonical Mass, that is, for the convenience of the people, would be celebrated perpetually in that oratory, in addition to other sacred functions, and that this agreement and law had been strictly observed from that time until the present. But even supposing that this law of celebrating Mass for the convenience of the people was not clearly expressed in the will, the orator argued that the oratory itself, being the designated heir, or the chaplains subsequently appointed, who would enjoy the assets of the oratory, were bound as heirs to fulfill the obligations perpetually undertaken by the testator. And here, it was not a question of a chaplaincy, but of a simple obligation to celebrate Mass in the morning for the convenience of the farmers, who could not all attend another church; to which obligation the testator had not only obligated himself through that agreement, but had also expressly obligated his heirs in the future. Nor could the Ordinary, although endowed with the widest faculty in executing the will, subvert the manifest will of the testator, especially when that will had already been executed.

[*Latin ed. p. 256*]

256 CELEBRATION OF THE MASSES. It was ordered that this be observed, and maintained for a period, as in the case of Cento, for sixty years. Having considered this matter most thoroughly, the Orator raised the question of law, recalling that, according to the strictness of the law, it cannot be prohibited that Masses be celebrated before the Mass celebrated by the Parish Priest, as was considered on July 15, 1844, in the Oratory. However, from the Council of Trent, session 24, chapter 7, it is indeed to be noted that parishioners should be encouraged, but not compelled, to attend the Holy Mass in the parish church; it concludes that only in the case can the Bishop prescribe the hours, when otherwise the spiritual good of the faithful cannot be promoted, as was considered in Rieti on April 24, 1830. Therefore, it was understood that this meaning was given in the alleged Forliviense, unless the Bishop otherwise arranges it reasonably. And the Orator indicated some examples that present a reasonable reason for changing and setting

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the hour of the Masses, such as those read in Urbisvetana, anno 1777. In this, when it was a question of two Masses celebrated at the same hour, these things were considered: "And I will bring back all the people, as if they were but one man." to the same church at the same hour. "Some mothers must carry infants; for some, as is customary for farmers and shepherds, they are occupied with the care of cattle and livestock; others remain in other affairs, while the rest of the family gathers to hear Mass. Therefore, it is often said that many do not attend the Holy Mass, unless a remedy is present, etc." The same was also considered in the Brictioriense, on April 20, 1793. Indeed, where it is read: "And this Holy Congregation knew this, when it declared: that the first Mass should be celebrated on feast days for the rural people before sunrise. In the present case, the same reasons were present for celebrating Mass early in the morning in the church of Saint Mary, to which were added a testamentary obligation and an observance of sixty years. These things were confirmed by other resolutions, as in a certain Piacentina concerning a chapel instituted with the obligation of celebrating Mass daily at dawn, and this also for the greater convenience and benefit.

[*Latin ed. p. 257*]

CELEBRATIONIS MISSARUM. In loco de Mornico, 257 homines poterant audire Missam antequam incumberent in labores. Cum autem Capellanus diebus festis celebraret Missam ad horas sibi convenientes, et Communio reclamaret; Episcopus, die 26 Septembris 1768, per Decretum suo favore Parochi edixit: «Capellanus debet celebrare Missam diebus feriarum ad maiorem commodum Populi in aurora, diebus autem festis ad horas quae ipsi melius videantur, dummodo tamen non celebret tempore Missae parochialis et hora impeditiva functionum parochialium.» Proposito autem dubio: «An Capellanus teneatur quotidie celebrare Missam in aurora etiam diebus festivis in casu:», S. C. respondit: affirmative, et amplius. Item, in quadam Gomaclen, die 27 Iulii 1763, agebatur de publico Oratorio in quo, ab eius erectione, Missa diebus festis celebrari consuevit. Parochus autem Episcopi Decretum anno 1760 provocavit, ne in diebus festis solemnioribus Missa celebraretur in dicto Oratorio, ex eo praesertim, ut ruricolae accederent ad ecclesiam paroecialem ut ducerentur rudimenta fidei; at observatum fuit inter caetera e contrario, ut, si Missa non celebraretur in eo Oratorio, Agricolae circumstantes nullibi praecepto satisfacerent. Proposito autem dubio: «An liceat in publico Oratorio de Calamene libere celebrare etiam in festis solemnioribus in casu:», S. C. respondit: Affirmative. Hisce aliisque animadversis, propositum est resolvendum Dubium: «An et quomodo sustineatur Episcopale Decretum diei 7 Aprilis 1864 in casu.»

RESOLUTIO. — S. Congregatio Concilii, causa cognita die 1 Februarii 1868, respondere censuit: servetur Concordia anni 1726.

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EX QUIBUS COLLIGES.

I. Ex universali invecta consuetudine, Fideles non teneri ad satisfaciendum praecepto audiendi sacrum in paroeciali ecclesia.

II. Quare, hac consuetudine pro fidelium libertate militante, eos non posse cogi, sed tantum moneri posse ad illud audiendum in paroeciali ecclesia.

Acta, tom. IV, fase. XLI. 17.

[*Latin ed. p. 258*]

258. CELEBRATIONIS MISSARUM. III. Tamen, in civitatibus et oppidis, illi [rurales] possunt indirecte ad hoc incitari, ad utilitatem ipsorum, si impedimenta removantur, quae eos ab ecclesia paroeciali plus deterrent. IV. Sed illa impedimenta non facile possunt removere, quibus remota, alia detrimenta infliguntur iuribus ruralibus, quae iam diu legitime acquisita sunt. V. Eadem impedimenta nullimodo possunt removere, quae, etiamsi legitima sint, magis ad detrimentum spirituale ruralium tendunt, quam ad utilitatem ipsorum. VI. Concluditur ergo: causae eiusmodi, sive ad prohibendum celebrationem Missae in oratoriis ruralibus diebus festis, sive ad mutandam horam celebrationis secundum conditionem loci et personarum, multo melius possunt cognosci in synodo diocesana, quam ex instantia vel querela cuiuslibet parochi (1).

REFORMATIONIS STATUTORUM CAPITULI. Die 12 Septembris 1868. Pii VII. pontificis maximi, per Bullam "De salute animarum", editam die 16 Iunii anni 1821, in Regno Borussico nova dioecesis circumscripta et cathedralium ecclesiarum erectio constituitur. Praeterea, voluit ut ecclesia N., quae nunc consistit ex sex canonicis et praeposito, nonnullisque vicariis, in collegiatam erigeretur: et in eadem Bulla facultas data est capitularibus, ut statuta capitularia condant, modo et forma qua capitulis cathedralium tribuebatur. Ex peditis, verba Bullae quae loco generalis normae in condendis statutis capitularibus habenda sunt, referuntur. Haec autem leguntur in §. 18: "Cuilibet similiter ex supradictis capitulis cathedralibus nunc et pro tempore existentibus, at ipsi capilulariter congregati, pro modo et circumstantiis magis accomodato earumdem..."

(1) De quaestione autem generatim considerata, si cappellani possint cogeri ad Missam celebrandam in determinatis horis, colligantur causae adductae in Fol. II. pag. 297 et Fol. III. pag. 92.

[*Latin ed. p. 259*]

CHAPTERS CONCERNING THE STATUTES OF THE REFORMATION. 259 We grant and concede, and declare to be valid, the power to enact and publish, to interpret and reform, and to establish anew, all statutes, ordinances, chapters, and decrees concerning the prosperous and felicitous governance and direction of archiepiscopal and episcopal churches,

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and their daily services, as well as concerning the matters and rights, both spiritual and temporal, pertaining to them, and the support of the burdens incumbent upon them; concerning the daily and other emoluments to be collected and distributed, and the penalties to be incurred by those who neglect divine offices; concerning the recording of individual presences and absences, the observance of ceremonies and rites, and all other matters necessary and appropriate for the aforementioned purposes, provided that such statutes, ordinances, chapters, and decrees are honest and lawful, and do not in any way contradict the sacred canons, the Apostolic Constitutions, or the Decrees of the Council of Trent, all under the presidency, inspection, and approval of the respective archbishops and bishops. We likewise grant and concede, freely and lawfully, the upon the power to those to whom it pertains, and to whom it will pertain in the future, to observe these things inviolably, under penalties to be established against those who act contrary to them. This faculty is likewise granted in the same Apostolic Chapters to the church of N. of which we are speaking. The aforementioned Pontiff entrusted the execution of these decrees to the Bishop of Varmiensi, to whom he expressly granted the power to delegate, especially in places distant from his residence. A delegate appointed by the executing Bishop carried out the matters pertaining to Chapter N., and among other things, approved and confirmed the chapter statutes themselves as a delegate of the Holy See, with a diploma given for that purpose. The archbishop within whose diocese the church of N. is located, in a report concerning the status of his church in the year 1857, stated that among the statutes of the same church, the following were found: § 13 "At least on each day, during the solemn Masses, from the beginning to the end, the Prefect and the Canons must be present, unless a serious illness or a legitimate absence in church affairs excuses them; and this presence alone will not only produce its proper fruits, but those who neglect it will also be fined five silver coins to be used for the expenses of the sacristy. The vicars, however, must be present at all hours of the office and at the High Mass; those who are absent without permission are subject to the same fine."

[*Latin ed. p. 260*]

260 CHAPTERS CONCERNING THE REFORM OF STATUTES. And §. 1 6, the same Archbishop explained that provision had been made so that on Sundays and on double feasts of the first and second class, and also on greater feasts, the Canons would read in the choir the Chapters, Responsories, Prayers, etc., while on the other days of the week, the Vicars would read; and that the Canons were not to be considered bound to attend the choir more than was expressly stated in these statutes. Furthermore, he explained that, with regard to the application of the Conventual Mass, the following had been established, §. 1 9: "Also, on Sundays, the other Canons will apply the Conventual Mass for those who have not attended

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our Basilica; on the other days of the week, with a free intention, so that the obligations of the Foundation towards a suitable stipend may be fulfilled." Therefore, the Archbishop inquired whether these things could be observed with a safe conscience. The question proposed through summary prayers or through supplications presented at the meetings held on December 17, 1859, resulted in the following Rescript: There is room for the reform of the statutes, so that the Canons, in order to fulfill their entire divine office and to apply the Conventual Mass daily for the benefit of the benefactors in general, shall be obliged to attend, with a fine of five silver coins for each hour of absence, those who are from *aequa*. However, it is to be requested of the Most Holy [Father] for the grace of a reduction of this service, alternating weeks, except on feast days and also on suppressed days. This resolution was approved by the Most Holy [Father]. The Canons did not immediately comply, especially with regard to attending the choir, because the Archbishop had not reported to the Holy Congregation that the capitular statutes had received the approval of a delegate from Rome; and that if such a circumstance had been omitted, the decreed reform of the statutes would certainly not have been enacted. The new Archbishop, before compelling the Canons to fully execute the resolution, and since the reasons presented by the Canons seemed to contain some truth, considered it better to again propose the matter to the Holy Congregation, and he also made his own opinion known to the Holy Congregation. He explained that his predecessor, the Archbishop (that is, the one who had already been elected to that Archbishopric), had, as a delegate, ordered the execution of Apostolic Letters concerning Chapter N, so that the Prefect, the Canon-

[*Latin ed. p. 261*]

CHAPTERS CONCERNING THE STATUTES OF THE REFORMATION. 261 Neither to be counted! And the Vicars, under the title of funeral expenses, should continue to receive the revenues of the prebends for ninety days after the death: The revenues beyond this time, belonging to the vacant prebends and canonries, would be increased for the treasury and raised to annual sums, the use of which he had reserved for future purposes; but the revenues of the Vicars would be distributed among themselves. Since, however, he had not stipulated anything concerning the use of these sums after his death, he had granted his successor, at the request of the Canons, certain concessions for several years, so that the revenues of the church, after all expenses were deducted each year, would be applied equally to the treasury; and furthermore, he had decided that the revenues of this treasury or fund would be received by the Canons in equal portions, and by the Prefect in double portions; but he had not stipulated anything concerning the service that the Canons should render to obtain these revenues. Meanwhile, the annual revenues of this fund had increased so much that each of the six Canons would receive

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approximately two hundred Thalers of Prussia, and the Prefect would receive four hundred from this fund; furthermore, the government would pay each Canon an annual salary of 420 Thalers, and the Prefect 840 Thalers; in addition to these, the Canons would receive approximately 200 Thalers from other church revenues, so that approximately one-fourth of the annual revenues of the treasury distribution of all the fruits of any canonry would be received, which, however, would gradually increase in future vacancies. Having explained these matters, which it was necessary to explain, the Archbishop expressed his opinion with these words: "It would be best, if instead of " the fine of five silver coins, the annual revenues of this treasury distribution were converted into daily distributions to be divided among the hours, so that those who serve in the choir on designated days, according to the Resolution of the Holy Congregation of January 9, 1860, confirmed by the Supreme Pontiff, may only profit from them. Therefore, I humbly beg that the Most Reverend Fathers grant me the faculty to replace the annual revenues of this treasury distribution, instead of the fine of five silver coins, with daily distributions of one-third of the fruits, according to the Decrees of the Council of Trent."

[*Latin ed. p. 262*]

262 CHAPTERS ON THE STATUTES OF REFORM: A Synopsis. Several observations, as is customary, have been made: it was noted that the matter concerned three issues, the first relating to the reform of the statutes regarding the attendance of the choir, the second to the distribution of funds, and the third to the dispensation from omissions. Regarding the first, it was observed that the principal duty of the Canons is to recite the Divine Office in its entirety in the choir; St. Clement, chapter i on the celebration of Mass, states, where, according to the sacred canons, it is prescribed: "In cathedrals, regular, and collegiate churches, the hours due are devoutly chanted." Also, in chapter "Dolentes," in the same title, it is written: "strictly commanding, in virtue of obedience, that the Divine Office, both nocturnal and diurnal, be diligently celebrated and devoutly performed, as far as God shall grant them." Furthermore, the Council of Trent, session 24, chapter 12 on Reform, had not established anything older than ordering the Canons to attend the choir diligently, so that neither the statute nor the custom could tolerate undue absences. Pope Benedict XIV, in his decree, I. 13, chapter 9, testifies that the judgments of the Apostolic See have never supported the intention of those Canons who did not consider themselves bound to certain canonical hours, even due to the inadequacy of their revenues; and that the zeal of those Bishops who have opposed those Canons has been highly commended to the Holy See. However, since the only reason for doubt raised by the Canons concerned the confirmation of the statutes by the Apostolic Delegate, it was observed that the Apostolic confirmation confers full force upon what the Canons

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contend, when the confirmation comes from the Supreme Pontiff based on certain knowledge and due consideration, as has happened on more than one occasion. Indeed, it is a well-established principle of law that it is not permissible for a Mandate, or Delegate, or Sub-Delegate to exceed the limits of their mandate; and the Sub-Delegate had been entrusted with the task of confirming the capitular statutes, according to the Apostolic Letters, that is, statutes that were lawful and honorable, and which were not at all contrary to the sacred Canons, the Apostolic Constitutions, and the Decrees of the Council of Trent; to oppose, however, the aforementioned capitular statutes is to oppose the sacred Canons.

[*Latin ed. p. 263*]

CHAPTERS CONCERNING THE REFORMATION OF STATUTES. 263 Therefore, the Apostolic Delegates not only exceeded the limits of their mandate, but acted contrary to the very mandate itself. Regarding the second question, it was observed that five Prussian silver coins, if deducted daily from the income of each Canon, would constitute only the tenth part of the income of each canonical prebend; therefore, this penalty is considered to be quite mild. Consequently, the decree of the Holy Synod, in chapter 3 concerning the Reformation, of the second session of the Council of Trent, should be considered, in which the Holy Synod decreed that in cathedrals and collegiate churches, where there are no daily distributions, or where they are so slight that they are practically ignored, one-third of the fruits and all revenues and emoluments of both dignities and canonries should be separated and converted into daily distributions, according to the division established by the Bishop, etc. Finally, with regard to the third question, it was noted that, for the granting of absolution from past omissions, good faith has always been demonstrated by the Holy Congregation; therefore, it remains to be considered whether the reason presented by the Canons, for which they have hesitated to comply with the resolution, should be taken into account. DOUBTS. I. "Whether and in what manner is there room for the reformation of the Chapters concerning the attendance of the choir in this case?" II. "Whether and in what manner should a fund for distributions be established in this case?" III. "Whether it is necessary to consult with the Most Holy Father for absolution and for past omissions in this case?" RESOLUTION. — The Holy Congregation of the Council, having heard the arguments on September 12, 1868, decided: Regarding I and II: Affirmative in all respects, according to the opinion of the Archbishop. Regarding III: Affirmative, provided that the obligation of one Mass with singing, with the entire Chapter present, and five clear Masses to be celebrated by each Canon and by the Prefect, is agreed upon, after consultation with the Most Holy Father. FROM WHICH IT MAY BE GATHERED: I. That the universal law of the Church obliges each Canon to

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duly and devoutly chant at each canonical hour in the choir.

[*Latin ed. p. 264*]

264. CHAPTERS CONCERNING THE STATUTES OF REFORM.

I. It must be shown that any limitation, if one exists, is subject to the law; otherwise, it will be considered to have happened by chance (1).

II. Canonical statutes enacted by a chapter cannot, by any external means, exempt them from the universal law.

III. This protection cannot be placed in an approval granted by a superior, even one endowed with an Apostolic delegation, to whom the power to approve has been granted according to common law.

IV. According to common law, canonical statutes cannot be considered valid unless they are lawful, honest, and do not contradict the sacred canons, the Apostolic Constitutions, and the Decrees of the Council of Trent.

V. Furthermore, it must be understood that the distribution of funds, according to the standard of Trent, must also be present in those chapters that, lacking their own endowments, receive a salary from the government; and if funds are lacking, the canons can and should be compelled to provide for the necessary expenses in proportion to their absence.

VI. Finally, it must be understood that the Holy See is lenient in imposing penalties on those who, through some good faith, have not adequately fulfilled their office (2).

DIVISION AND COMPENSATION.

September 12, 1868.

The parish of A is located in the diocese of N, to which seven villages or towns belong, separated by a river; three of these are on one side of the river, and four are on the other. However, the inhabitants of these latter four villages could not, without significant difficulty and considerable inconvenience, access the parish church of A, which is located on the other side, either due to the distance or because of the rough roads and precipitous terrain.

(1) We have noted similar things in Volume III, page 368.

(2) Indeed, the canons were mistaken in not following the resolution approved by the Most Holy Congregation; but the cause of the error was most noble. A man endowed with an Apostolic delegation approved our statutes, which did not signify anything to the Holy See. What could be more opposed to execution than that which, preferring the appearance of

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truth, rendered it impossible?

[*Latin ed. p. 265*]

DISMEMBERMENT AND COMPENSATION. 265 This [area] is traversed by a river, which, swollen by winter rains, often overflows, so that at times it is full of dangers, and at other times, passage across it is impossible. The pious priest, pitying the spiritual loss of the inhabitants of these villages, who are situated on the other side of the river, relinquished all his possessions in the will so that a new parish might be established in the village of B. nova. The inhabitants of this village, therefore, petitioned for the opening of the river, first citing the letters of Clement XLII, which approved a certain agreement initiated among all the parishioners concerning the residence of the parish priest. However, when some of the parishioners refused to comply with these requests, and the priest, moreover, was to lose the collection of tithes in the parishes being divided, the matter was discussed in the Sacred Congregation of Councils on March 15th and April 19th, 1845. After the Sacred Congregation determined that the opening of the river was permissible, it granted its approval to the petition, and ordered the Bishop to determine the annual sum to be paid by the new parish priest to the rector of the old parish in compensation for the tithes, in addition to the offering of one pound of white wax to be used on the feast of the titular saint, in accordance with the tradition of the church; and finally, to ensure that a suitable plot of land be assigned by the people for the maintenance of both the church and the lamps, whether for day or night. All of this was communicated to the Most Holy Father, who confirmed everything. The Bishop of that time, although he favored the establishment of the new parish and often sought to bring it about, delayed the completion of the matter, so that in the meantime, the annual income from the administered estate could be increased, the existing sacred building in that village could be expanded, a parish house could be built, a sufficient portion could be established for the expenses of divine worship, and other things necessary for the establishment of the new parish. However, the new Bishop, upon discovering during his pastoral visit that the inhabitants of these four villages were increasing in number and that the reasons for which the division had been decreed had become less compelling over time, made every effort to ensure that all preparations were completed so that the division could proceed. With almost everything prepared, he decreed the division on May 4th, 1864. In that decree, having left all the possessions to the mother church, he reserved for the priest of that same mother church the right to collect tithes on the lands of –

[*Latin ed. p. 266*]

266 OF DISMEMBERMENT AND COMPENSATION. The territory was

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detached, and in its place, the new parish priest was ordered to pay annual sums of fifty livres, based on an assessment of the tithes that the previous parish priest, A., had previously collected in those towns. Furthermore, in order to maintain the dignity of the church, it was decreed that the new parish priest should, for each year, personally offer one pound of beeswax during the solemnities of the Mass on the feast of the saint, to the rector of the church of A. The rector of the church of A., who from the beginning had resisted the dismemberment, used every means at his disposal to prevent it from taking effect after it had been decreed, and, persisting in his opposition, he appealed to the Holy Congregation. Indeed, he even dared to challenge the secular authority, so that the Bishop's decree would not be enforced, but he received the reply on November 25, 1864, that he must remain the parish priest of the entire parish, and that the dismemberment could not take place without the consent of the civil authority. From this account, it is clear that the main issue had already been resolved, since not only the Bishop, but also the Holy Congregation, were aware of the reasons for the dismemberment; nor were the solemnities lacking in which these reasons were known and accepted in the dispute between the parties. Therefore, the reasons which the parish priest again presented, opposing the dismemberment, are not added to the necessity of the case, but only for the sake of information. *[Illegible word]*. WHAT THE PARISH PRIEST ALLEGED. — At the beginning, I observed that he did not claim to be merely an executor of the Bishop's mandate, but that he held, by virtue of the sacred canons, jurisdiction over the entire parish; and that, unless an insurmountable necessity demanded it, he could not be legally deprived of this jurisdiction; and that difficulties in access, such as a river crossing, and similar inconveniences, if any existed, were not sufficient reasons for dismemberment; Cardinal de Luca, *De Parochis*, chapter 18: "It is less advisable to establish new parishes than to appoint vicars." Also, the Holy Rota, decree 224, number 16 and following, part 10, recent, and decree 158, part 10, number 5: "Thus, by appointing a chaplain, the needs of the parishioners are sufficiently met, and the ancient laws of the church are observed, without any dismemberment, which is without cause."

[*Latin ed. p. 267*]

DISMEMBERMENT AND COMPENSATION. 267. Necessity is not permitted, when it can be provided for in another way, since such a course is odious to the sacred canons; and when it can be provided for from elsewhere, the necessity which is the cause of dismemberment ceases, and the decree of the Council of Trent and the "Caput Ad Audientiam" are nullified, and in particular, that one should not resort to dismemberment, when the sacraments can be administered in a certain church by the delegation of a single presbyter. Furthermore, Ceccoper. ad Scarfanton. Lucubrat. in decis. Rotae 21 n. 18. "And while this delegation remains in effect for all

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the needs, namely, of the suburban population, and for the well-being of the mother church and its rector, it follows that, unless it can be provided for in another way, one should by no means resort to the odious means of dismemberment, as has been decided in the aforementioned rulings, etc., and in accordance with the opinion of the Holy Congregation, as is commonly seen in Barbosa ad Conc. Trid. sess. 21 c. 4 de Refor. n. 10, and de Potestate Epis, alleg. 78 n. 7, and in Summ. Apost. decis. in voce n. 2, Bertacchini Vol. decis. 117 n. 2, where he refers to the resolution of the aforementioned Holy Congregation in Militen. of January 26, 1697, and also states that it is not sufficient for the valid dismemberment of a parish, neither a considerable distance, nor a river intervening, nor that many have died without the sacraments, unless it is proven that it cannot be supplied by the application of a chaplain (1).

(1) This opinion of Bertacchini, inserted in this decision of the Holy Roman Rota and attributed to the Holy Congregation, led me to examine that resolution in the records of the Holy Congregation, since it seemed to me improbable that it was the opinion of the Holy Congregation. In fact, after reading it, that opinion is in no way contained therein. In the aforementioned case of Militen, the matter concerned the dismemberment of a parish carried out in this manner. A certain archpriestal church became vacant due to death; the people of a certain village within the same archpriestal parish petitioned for dismemberment due to a distance of one mile, as they claimed, and the difficulty of travel due to a stream intervening. The bishop called a meeting for the election of an archpriest, and there were eight candidates, whom he summoned together before the Vicar General, the synodal examiners, and the secretary, and he revealed to them his intention of dismembering the parish so that a new pastor would be appointed in that village, consisting of four hundred faithful, who would receive tithes from that village, and would also be charged with the burden of paying 50 ducats annually to the archpriestal church. The matter was discussed in those meetings, and the votes were cast, and it was accepted as if by a kind of inspiration, as the Bishop himself says: "and thus a decree of dismemberment was issued, and a new archpriest and then a new pastor were elected and instituted according to the issued decree. The matter remained calm for eight years, until the archpriest complained against the dismemberment, alleging that it had been carried out without a legitimate cause, without solemnities, and during a period of vacation."

[*Latin ed. p. 268*]

268. ON THE DIVISION AND COMPENSATION OF BENEFICES. It is worthy of consideration that Monacelli, in *Formularii*, part 1, title 2, form 3, number 6, states that when a community promises to endow a new parish, one must proceed to the division [of the benefice], etc. It cannot be maintained in the present matter that the testamentary disposition of

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the aforementioned priest is valid, since no one can, in his will, stipulate that the laws should not have effect in his will. (I. 55 ff. on Legates). Nor does the Council of Trent, session 22, chapter 4 on Reforms, or the chapter on building churches, present an obstacle, for when the inconveniences of the parishioners can be remedied in another way, it is not necessary to appoint a defender for the archpriestal church when it is vacant. The cause was presented before the Sacred Congregation, and the new pastor was invited to state his rights, but he did not respond, so the question was put: "Whether the division of the parish of Polyoli from the archpriestal church, and the erection of a new parish as mentioned above, are permissible?" The Sacred Congregation, on January 26, 1867, decided that the Bishop should proceed with the process, observing all due formalities, and transmit it to the Sacred Congregation. However, from this response, one cannot deduce the opinion previously stated, since it dealt with verifying the causes for the division and the necessary formalities to be observed. I do not doubt that the Rota was somewhat more insistent in this matter, considering the division of parishes often as a mere division of benefices. Therefore, if some means could alleviate the distance and difficulty of travel by appointing an assistant or chaplain, it does not necessarily lead to the judgment of division, about which I have written in Appendix VI, F. III, p. 396. The Sacred Congregation of the Council was also more inclined to admit the division of parishes when an endowment for the new pastor had been provided from elsewhere; on this matter, Monacelli wrote as follows in the aforementioned passage: "However," it often happens that a formal division occurs when a part of the parishioners, or the community that requests it, endows the new parish appropriately, due to the great distance and difficulty of travel, as observed by Cardinal De Luca in *De Decimis*, discourse 12, number 8. Therefore, the offering of a chaplain or assistant for the administration of the sacraments on holidays, made by the rector, to avoid the division, is not sufficient to delay the erection of the new parish, but the process should proceed nonetheless, as declared by the Sacred Congregation of the Council on January 16, 1649, which is contrary to the opinion of the Rota in *Oveclen*, of the year 1681, a decision that was cited in the aforementioned case in January. Another example of this doctrine, confirming the same doctrine, is found in volume III of these *Ephemerides*, page 354. This doctrine is confirmed by the chapter "To the Hearing," which the Council of Trent restored to full force. It is much more beneficial to the Christian people to have their own pastors (who, in recent times, are also called "preachers"), than to have others appointed by them.

[*Latin ed. p. 269*]

DISMEMBERMENT AND COMPENSATION. 269 It must be determined whether the proposed dismemberment takes the form of a prohibited alienation. In the town of Kosso, it was deemed most fitting to

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establish a chaplain, since a church already existed there, and also a priest who would celebrate Masses for the inhabitants. However, the pastor asserted that there was not a great distance between these inhabitants, nor was there any difficulty in travel, and therefore, this reason could not have been invoked under the heading "For the Good of the People." To confirm this, he recalled that in the year 1767, the question of transferring the parish church from one town to another had been raised; also, the question of dismemberment had been raised, and doubts were proposed to the Sacred Congregation on March 14: I. "Whether the transfer of the parish church to a new church in the village should be permitted, or rather, whether the place should be restored to the old church in Arcis?" II. "Whether a division or dismemberment should be decreed?" The Sacred Congregation responded: To I, negatively to the first part, affirmatively to the second part; To II, provision is made in the first. Furthermore, it was stated that the consent of the people was lacking, since, even after the Bishop's decree, the inhabitants of one detached town, knowing that it would be beneficial to them to remain united with the old parish, had gone to its pastor for spiritual assistance; and the Bishop himself, under pain of suspension, had forbidden the same pastor to exercise any act of parochial jurisdiction over those inhabitants. Finally, with regard to the injury, it was stated that the dismemberment would separate wealthier families from their parish, while the parish's revenues would be meager, which the Bishop also affirmed: the tithes in the episcopal decree of dismemberment were estimated at 50 livres annually, whereas they should have been estimated at 100 livres.

[*Latin ed. p. 270*]

270 OF DISMEMBERMENT AND COMPENSATION. The uncertainty regarding the compensation of the rectory had not been remedied in any way, although it was alleged that the severed population contributed 150 *libellae*. And this ultimately limited the scope of the matter to financial considerations. WHAT HAS BEEN NOTED IN OPPOSITION:—Nothing was noted regarding the causes of the dismemberment, since these had already been considered by the Holy Congregation in 1839, which had judged that the causes of the dismemberment were present in the case, and nothing had been presented by the parish priest that could invalidate that decision; especially since the matter has passed into a final judgment. Therefore, the letters of the Bishop were presented, in which, among other things, he stated that the rectory was to be compensated to the former parish priest through a reduction in labor; which reduction should be granted to the one who is working. Moreover, since nothing had been taken from the assets of the former parish, although the Council of Trent, Session 22, Chapter 4, on Reforms, states: "To those priests who will be assigned to newly erected churches, a suitable portion shall be assigned

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by the Bishop from the fruits pertaining to the mother church in any way." Furthermore, it was considered that the Bishop had estimated the tithes that the former parish priest had previously received at 50 *libellae*, after hearing the Vicarius Foraneus and the parish priest himself, and taking into account the number of families severed from the parish and the price of grain over a decade. "It is doubtful whether an allowance should be granted to the requests of the parish priest (N.), first for the tithes, and then for other uncertain benefits." RESOLUTION:—The Holy Congregation of the Council decided on September 12, 1868: "The decree of the Bishop must be fully observed; and the parishes should consult their own conscience before appealing to secular authority, and furthermore." FROM WHICH ONE CAN GATHER: I. That those who challenge secular authority by appeal, so that the decrees of ecclesiastical authority are not put into effect, incur censure by that very act. II. Furthermore, it can be gathered that, given canonical reasons, that is, necessity or evident utility, the Bishop can and should proceed to the dismemberment of a parish.

[*Latin ed. p. 271*]

DISMEMBERMENT AND COMPENSATION. 271 III. The consent of the existing parish and its people is not required, when the loss of income is not borne by them. IV. Indeed, their dissent should be disregarded, if, for a canonical reason, they experience some loss of income (1). V. Parishes cannot complain about a jurisdiction imposed upon them; since the Holy Canons, by which they are governed, support the dismemberment, provided there is a canonical reason. FROM S. CONGREGATIONE INDULGENTIARUM. FERMO. On July 20, 1868. DECREE. — "The current Director of the Pious Union under the title of the Patronage of St. Joseph in the city of Fermo, and of the Archiconfraternity of the same title existing in Rome in the church of St. Roch, fearing that decrees previously issued by the Most Holy Universal Inquisition, namely on Thursday, November 17, 1689, and on Thursday, July 12, 1703, might be applied to the aforementioned inter-diocesan Pious Union, presented a petition to the Holy Tribunal. The aforementioned matter was then ordered to be sent to the Holy Congregation of Indulgences and the Holy Relics, and after all parties were summoned for examination, the following question was proposed: (1) Does the opportunity arise to inquire about the consent of the people and the parish in cases of the dismemberment of parishes, in a similar case as mentioned in Vol. III, page 362; especially in the appended Appendix VI, page 396. Also, I have written about recourse to secular authority in Vol. I, page 567. In such cases of dismemberment, the same story almost always occurs, as the pastors stubbornly oppose. They incite the people to dissent; as if the dismemberment of the parish should depend on the will of the people. And what is easier for a pastor whose mind is agitated, than to stir up a certain number of parishioners to show their dissent, so

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that the dismemberment of the parish is evident? However, the Christian people, who are not incited by the zeal of others to dissent, are usually most obedient to ecclesiastical authority, which alone has the duty of knowing and deciding what is more beneficial to the people and to the salvation of souls."

[*Latin ed. p. 272*]

272 Fermo. "Whether the Pious Union, established under the title of the Patronage of Saint Joseph in Fermo, and legitimately aggregated to the Archiconfraternity of the same title in Rome, can admit external members who request it." "The Fathers, in the general Congregation held in the Apostolic Palace at the Vatican on July 20, 1868, having first heard the opinion of the Consultor, and having carefully considered the matter, responded as follows: "Affirmatively, provided that all the requirements for admission are met, and in accordance with the regulations." And after a report on the foregoing was made to His Most Holy Father, Pope Pius IX, in an audience granted to me, the undersigned Cardinal Prefect, on August 18, 1868, His Holiness confirmed the Resolution of the Sacred Congregation. "Given in Rome, from the Secretariat of the Sacred Congregation of Indulgences, on the aforementioned day and year. A. Card. BIZZARRI, Prefect. A. Colombo, Secretary. Observation by the Consultor: Since the Director of the Pious Union was troubled by the Decrees of the Holy Office of the Inquisition mentioned, the Consultor considered it necessary to examine these Decrees, and he noted that these Decrees have nothing in common with the question raised. And indeed, this is the tenor of the Decrees. On Thursday, November 17, 1689. "Since, on August 18, 1684, certain indulgences were granted by a Brief of Pope Innocent XI, to a Confraternity under the invocation of the Blessed Virgin Mary, the Helper, canonically erected or to be erected in the parish church of Saint Peter in the town of Munich-Frisingen, in the diocese; and since, afterwards, certain sheets printed in the aforementioned town of Munich came to the knowledge of the Most Reverend and Most Reverend DD. of the Sacred Roman Church, Cardinals General Inquisitors, containing an image of the Blessed Virgin under the title: "Compendium della Confederazione Mariana eretta sotto la protezione della B. Vergine Maria nella Chiesa parrocchiale di S. Pietro nella città elettorale di Monaco" [A Compendium of the Marian Confederation, established under the protection of the Blessed Virgin Mary in the parish church of Saint Peter in the electoral city of Munich], which is somewhat discordant with the disposition of the aforementioned Brief."

[*Latin ed. p. 273*]

FIRMO. 273. It has been brought to the attention of the Fathers. Firstly, because of the discrepancy in the name of the Brotherhood and the confederation, which appears between the Brief and the title of the aforemen-

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tioned documents. Secondly, because in the Brief, regarding the invocation of the name of Jesus at the hour of death, the name of Mary was not expressly mentioned, as is read in the aforementioned documents. Thirdly, because numerous copies of these documents were distributed to countless faithful of both sexes, in various places, both in Italy and outside of Italy, so that these individuals, without any prescribed form or solemnity, could give or ascribe a name to the aforementioned Brotherhood, contrary to the express intention of the Pope in the aforementioned Brief, in which the principal indulgences granted to the members and associates of the Brotherhood are read, who, on certain days, devoutly visit the aforementioned parish church of the town of MUNICH. Having considered all of this, and after being informed by His Holiness Alexander, Pope, with the advice of the Most Reverend Fathers, and after examining the aforementioned documents, His Holiness, contrary to the disposition of the aforementioned Brief, and also declaring that the descriptions of the Brothers or Associates, made in any place outside of Munich, are null and void, as is declared and annulled by the present Decree. Another Decree, similar to this one, was issued on Friday, July 12, 1703, in which it was decided regarding three Marian Brotherhoods with increased indulgences. "When it came to the knowledge of the Holy Congregation of the Inquisition (these are the words of the Decree) that certain documents or summaries, at various times and in various places in Italy, and outside of Italy, relating to these Indulgences, were printed under this title: 'Spiritual bond of the living united with the dead' (or in Latin, 'spiritual bond of the living, strengthened with the dead'), which, after a careful examination, were found by the Most Reverend Fathers to be contrary and not a little dissonant from the dispositions of the aforementioned Briefs, namely: 1. Because in the title of the Summary of TURIN, the Indulgence, which was granted only to the faithful living in this life, is extended to the deceased, and indeed primarily to them, and in the documents relating to the Brotherhoods of the Holy Faith and OENIPONTI, a title of their own invention is used, namely: 'Spiritual bond of the living united with the dead,' contrary to the tenor of the aforementioned Briefs. Acts, volume IV, section XLI. 18.

[*Latin ed. p. 274*]

274 FIRMANA or 2: "Because the indulgences, which are granted to certain and specified persons and places, in which the aforementioned confraternities are canonically established, in these Bulls*, are extended to all and to any faithful of the whole world, who, without observing any form or solemnity, have given their name and have been enrolled in these confraternities, these aforementioned indulgences are extended contrary to the intention clearly expressed in these Bulls, in which the principal indulgences are granted for performing certain pious works, or for devoutly visiting the aforementioned churches on certain days of the year in the cities of

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the Holy Faith of Oeniponti and Taurini. 3°. Furthermore, because in the aforementioned sheets or summaries, the names of the deceased members of these confraternities are also written or said to be enrolled, after some of the faithful, while living, have performed certain works for them, although there is no mention of these things in the aforementioned Bulls. " Therefore, having carefully considered these and other matters, and having reported them to His Holiness Pope Clement XI, His Holiness, with the advice of the aforementioned Fathers, as well as the aforementioned sheets or summaries, printed in any language and in any place, contrary to the provisions of the aforementioned Bulls, forbade and condemned them, just as this present Decree condemns and forbids them; moreover, He declared that any and all descriptions of confraters and associates, made in any place outside the cities of the Holy Faith of Oeniponti and Taurini, are null and void and of no validity. As this very Decree annuls and respectively forbids, saving and firmly maintaining in their full force all those things which are granted in the aforementioned Bulls. Indeed, another Decree or Encyclical Letter was issued on May 25, 1864, in which certain defects were reproached in certain sheets or summaries of indulgences of a certain pious society which was established in a diocese of Gaul. Therefore, after reviewing these Decrees, the Consultor noted that the prohibition extended to the extension of enrollment outside the diocese, and therefore they were forbidden because they were made contrary to the form of the Apostolic concessions, both as regards the conditions for enrollment, and as regards the works to be performed, and as regards the indulgences.

[*Latin ed. p. 275*]

FIRMANA 275: and in this sense, the two Decrees of the Sacred Congregation of Indulgences must be understood equally, one dated April 28, 1761, concerning America, and the other, recently published in Andegaven (1) on September 6, 1861. Furthermore, in the Apostolic Letters, in the form of a Brief, by which the Confraternity of Fermo, of which we are speaking, enjoys its privileges, nothing is found that would restrict the Confraternity to diocesan members alone; therefore, it can rightfully admit any outsiders. However, it was observed that said pious union had lost the Indulgences granted to it by those Apostolic Letters, due to its aggregation to the Archsodality of the same name which exists in the City; and it enjoys only the Indulgences granted by this Archsodality, according to the form of those same Letters. For in these Letters, there was a clause containing these words: "We desire...that if said pious union is already aggregated to any Archconfraternity, or in the future is aggregated, or is united in any other way...the former and all other Apostolic Letters shall remain in full force and effect; but, from that time forward, none shall be." Therefore, said pious union enjoys only the Indulgences and favors communicated by the Archconfraternity to which it is aggregated. From which we gather:

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I. That the Holy See most strongly disapproves of summaries or abstracts of Indulgences, which do not fully correspond to the Apostolic concessions. II. That the Apostolic favors and graces, by which canonically erected pious Confraternities are enriched, cannot in any way extend beyond the form of the concessions. III. That the faculty of aggregating confratres, which is not restricted to specific locations in the Apostolic Letters, can be exercised in any place, provided that all other requirements for admission are met. (!) This Decree is found in Vol. I, p. 628. Here we observe that the pious sodality concerning which the first Decree of the Holy Office was previously cited, has since been increased by new Apostolic concessions; hence, it is not surprising that it can now admit all.

[*Latin ed. p. 276*]

276. *Ex S., Congregatione Episcoporum et Regularum, Concordiae. Die 18 Septembris 1868.* Compendium facti. Sacerdos N., anno 1860 defunctus, in testamento iamdiu confecto, haeredes oneravit piis legatis, scilicet Missis 3000, cum eleemosyna tenui determinata; mille scutatis ad instaurandum paroeciale templum, obligatione adiecta celebrandi anniversarium perpetuum per quattuor Sacerdotes; demum scutatis 20 pauperibus paroeciae distribendis. Pro his adimplendis legatis, determinavit scutata 2000, ita ut, quidquid superesset, administrari a Parocho, et fructus erogari deberent in subsidium pauperum familiarum paroeciae. Sed cum, tempore quo vivimus, piae morientium voluntates a viventibus haeredibus plerumque uti mortuae censeantur et mortuo sepultae, haeredes Sacerdotis N., cuidam legi civili innixi, validitatem eorum legatorum impugnarunt. Exsecutor testamentarius, cum praevideret rem difficilem futuram esse, ut in civilibus tribunalibus iustitia mortuo Sacerdoti redderetur, utilius causae piae esse existimavit si hae partes ad transigendum induceret; quod quidem obtinuit, quadam proposita transactione, in qua legata dimidiata sunt. Hac transactione conventa, preces ab exsecutore porrectae sunt SSmmo Patri ut adprobentur; quare rogatus est Episcopus, qui inter caetera retulit, Parochum paroeciae legatariae audivisse pauperes, qui eleemosinae sibi debitae sponte renunciarunt: eumque existimare melius esse eam partem certam in acceptis habere, quam fortasse nihil. Episcopus denique enarravit, ipsum testatorem, dum viveret, iam magna ex parte satisfecisse Missarum legato in testamento iam scripto. His notitiis habitis, caeterisque servatis, res in examen deducta est in S. C. Episcop. et Regul.

[*Latin ed. p. 277*]

CONCORDIAE Disceptatio 277 syiioptiea. It has been considered, from the standpoint of duty, that heirs are bound by certain Decrees of civil authority issued in the jurisdiction of Tuscany in the year 1731, and in the year 1848 extended to another jurisdiction, Prato, by which it is ordered that all

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dispositions of property made to the Church, which exceed a certain determined value, are to be considered null and void unless a decree is obtained from civil authority. In these jurisdictions, a priest, N., observed that these Decrees could indeed deny a civil action (which is a grave injustice, since it infringes upon the liberties of the Church) to recover pious bequests made to a pious foundation, but they could not, however, remove the natural obligation by which the heirs are bound by the will of the testator. Piton, Disput. eccl. 2, no. 14; Maranta, lib. i, resp. 41, no. 8, who wrote: "The obligation arises for the heir solely from the will of the deceased." Once a certain obligation is established, there is no place for a transaction; for we negotiate about doubtful matters, not about a certain obligation. Indeed, if the law is unjust, the approval of a transaction would, in some way, seem to approve the very law itself; and for this reason, a certain transaction was not approved in Asculana, on August 14, 1863, in which heirs likewise opposed similar Decrees of the Government of Piedmont. On the contrary, a favorable view of a transaction was observed, since civil law can repeatedly be the cause for approving a transaction, as was the case in a certain cause in Derthonen. Regarding the concordia, which was discussed on March 27, 1868 (1). After considering these and other matters, the question to be resolved is: "Whether and how a transaction should be approved in this case." RESOLUTION. The Sacred Congregation of Bishops and Regular Canons, having considered the matter, decided on September 18, 1868, to respond as follows: "Considering the particular circumstances of the case, the Archbishop (N.) is granted the necessary and appropriate faculties, even for the reduction of Masses, with the understanding that he will act in accordance with the will of the Most Holy [Pope]." (1) This case, if you wish, can be recalled in Vol. III, page 529. However, note that this case has nothing in common with the present case regarding civil laws.

[*Latin ed. p. 278*]

278 CONCORDIA: From these [points], you may gather the following: I. Transactions, perhaps concluded concerning a certain debt owed to the Church, the Holy See may not approve, if this is the sole reason: because those who are compelled by an unjust law to pay the entire debt cannot, in a civil manner, deliver the whole amount. II. The present transaction may be approved because of particular circumstances joined to it. III. It should not be considered that civil decrees remove the obligation of heirs to fulfill the most just will of testators, thereby depriving the faithful of the free disposal of their goods in favor of the Church, when such decrees harm them unjustly.

FROM THE SACRED CONGREGATION FOR THE PROPAGATION OF THE FAITH, LETTER OF THE SAME DATE, September 29, 1868.

Most Illustrious and Reverend Lord:

"It was the custom, centuries ago, that those who were required to com-

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municate with the Apostolic See concerning ecclesiastical affairs (except those pertaining to the Eastern rites), or to request favors, should use the Latin language, or at least the Italian language. This custom was not without weighty reasons, since, among other things, it was impossible to require that administrators or officials of the Holy See, who receive letters or petitions from all nations of the world, should read and understand all languages. However, in recent years, the practice has increased that writings are sent to this Sacred Congregation for the Propagation of the Faith not only in the French language (which presents hardly any difficulty), but also in English, German, Dutch, and other languages; and it often happens that the progress of sacred affairs suffers considerable delay. Since this is the case, I cannot..."

[*Latin ed. p. 279*]

HORTATORY LETTER 279, section III. I commend to your Lordship, again and again, that you do not neglect to impress upon both laymen, but especially upon ecclesiastical men subject to you, that whenever they wish to send letters, petitions, or even documents pertaining to ecclesiastical matters to this Holy Council, they should take care to use the Latin or Italian language, as far as possible. And since I have mentioned the Latin language, it is not without reason to observe that the neglect of this language has brought about very grave harm to the Churches throughout the world. For not only does communication with the Church of Rome and with other Churches in various regions become more difficult, but that greatest advantage which traveling Catholics enjoyed in past times is also lost, namely, the benefit of finding, everywhere, faithful Christians speaking the common language of the Roman homeland. Moreover, the Christian people, ignorant of the Greek language, will gradually become estranged and almost imperceptible to all sources of both sacred and profane knowledge, which, especially for those who do not know the Greek language, can only be made accessible through the Latin language. Therefore, it will be the work of your solicitude to promote the study of the Latin language in your Diocese, and I believe that the present occasion is suitable to commend this matter to your Lordship. "I pray God to keep you long in good health." "Given in Rome, from the Offices of the Congregation for the Propagation of the Faith, on the 29th of September, 1868." "To the Most Illustrious and Reverend Lordship. Prepared by Alessandro Barnabò, Prefect. John Simeoni, Secretary. It seems that there is something worthy of note: at the very time when the question was raised in the Church concerning the exclusion of classical Latin authors from Catholic gymnasiums and seminaries, it is necessary to send out hortatory letters, so that clergy, according to the ancient and invaluable custom of the Holy See, communicate by letters written in Latin, and not in the vernacular language, and that they devote themselves to the study of the Latin language, lest the bond of

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unity, whether in ecclesiastical sciences or in the exchange of ideas among so many divided peoples and languages, be completely dissolved."

[*Latin ed. p. 280*]

280 APPENDIX - V I. CONCERNING THE HERMENEUTICAL QUESTION REGARDING THE SACRED SACRAMENT CELEBRATED IN MISSES HELD IN BLACK VESTMENTS. We return to the liturgical question of which we have already spoken after the promulgation of the General Decree. The Third Consultor, who undertook to examine it (and whose examination we will summarize below in separate sections), observed that, in order to render a correct judgment on this matter, it would be improper to seek arguments from ancient liturgical monuments, which are very clear, since there is no doubt that the Sacred Sacrament is presented to the faithful in Masses for the Dead, even when celebrated in black vestments, as Benedict XIV recounts: the question does not arise from these, but from liturgical laws recently enacted, by which we are governed today; especially those concerning the colors to be used by Church ministers in the performance of sacred functions; therefore, the question must be resolved according to the present liturgical prescriptions. And indeed, both here and the second Consultor insisted solely on this question. OBSERVATIONS OF THE SECOND CONSULTOR. Approaching the matter more closely, he considered the following: the liturgical laws to be considered in this question are contained in the Roman Missal and the Roman Ritual, the former of which was published under the authority of St. Pius V and recognized by Clement VIII and Urban, while the latter was published by Paul V in 1614 and amended and enlarged by Benedict XIV in 1750. The rubrics of the Missal, with regard to Masses for the living, state in title 7, n. 2, 3: "From the Offertory, he uncovers the chalice, takes the paten with the host..." If there are other hosts, not on the paten, but on the corporal, or in another chalice or vessel consecrated for the communion of the people, he uncovers that chalice or vessel with his right hand, and expresses his intention, etc. When the priest arrives at the consecration, these same rubrics prescribe in title 5, n. 5: "If there is a vessel with other hosts to be consecrated, before taking the host, he uncovers with his right hand the chalice or vessel of the other hosts... and secretly pronounces the words of consecration over the host and at the same time over all, if there are several to be consecrated." And in n. 6: "Having placed the consecrated host on the corporal, he kneels and venerates it. If there is a vessel of other hosts, he covers the paten or pall as above." Finally, concerning the administration of communion to the faithful present, n. 6 states: "If there are those to be given communion in the Mass, the priest,

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after taking the chalice, before purifying himself, makes..."

[*Latin ed. p. 281*]

VI. Concerning genuflection and the placement of the consecrated particles: The particles, having been consecrated, are placed in the pyx, or, if few are to be distributed, upon the paten, unless they have been placed in the pyx or another chalice from the beginning. Meanwhile, the minister extends the linen cloth before them, etc. The Consultor stated that these rubrics are to be understood even concerning consecrated Hosts which are taken from the Tabernacle; regarding which, De Herdt, *Sac. Liturg. Praxis*, t. I, p. 2, title 40, n. 28, writes: "If the Hosts in this Mass have not been consecrated, the tabernacle is opened, and, with the tabernacle opened, one genuflects, then rises and takes out the pyx, etc." In the Rituale, *Ordo ministr. Euch.*, it is written: "The Communion of the people should take place within the Mass, immediately after the Communion of the celebrating priest, unless, for a reasonable cause, it is to be done after the Mass." Also, in the Missal, title 40, concerning the *Oratio Dominica* and others, n. 5: "If consecrated Hosts are present, placed upon the corporal for reservation at a later time, they are placed in the vessel designated for this purpose, and care is taken that no fragment, however small, remains upon the corporal; if any such fragment is found, it is carefully placed in the chalice." And in n. 7: "If particles remain in the chalice or in another vessel until the end of the Mass, they are to be reserved as is prescribed in the *Coena Domini* on feria V, at the end of the Mass." From these statements in the Missal and Rituale, and from the explanations of the authors, the Consultor inferred that: 1. The Holy Eucharist is to be administered to the faithful immediately after the Communion of the priest; 2. Even with Hosts that have been consecrated beforehand; 3. Even after the Mass, with the opening of the Tabernacle. He showed that these things, which pertain to Masses for the living, are also to be extended to Masses for the dead, as is evident from the rubrics themselves. In Masses for the Dead, there are indeed several variations, which would require an entire title to enumerate, namely, title 43, *De iis quae omittuntur in Missa pro Defunctis* (Concerning those things which are omitted in the Mass for the Dead). In this title, each action of the Sacrifice and almost every word are carefully listed, from the very beginning to the end; the variations are noted, for example, concerning the making of the sign of the cross with the right hand extended over the book at the Introit, and concerning the omission of the psalm *Judica me Deus* before the Confiteor, and also the first prayer before Communion, etc. Furthermore, in this careful description of what is to be omitted and what is to be observed, there is not a single word concerning the Holy Eucharist not being given to the faithful; rather, it is finally prescribed in this title: "All other things as in other Masses." Therefore, the Consultor concluded, with regard to the Communion of the faithful, the

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same things are to be observed in Masses for the Dead as are prescribed for other Masses. Another argument was taken from the Rituale, title *Ordo ministr. sac. Com.*, where the rite to be observed in administering the Holy Eucharist outside of Mass is given, and there it is written: "Wearing the surplice and over it the stole of the color..."

[*Latin ed. p. 282*]

282 APPENDIX II. In accordance with the office of that day, the priest, or another minister, proceeds to the altar... he takes out the pyx... When all have communicated, the priest, returning to the altar, can say: "O Sacred Banquet, etc." Then, extending his right hand, he blesses those who have received Communion, saying: "May the blessing of Almighty God, etc." Therefore, since the Holy Eucharist can be administered to the faithful outside of Mass in this manner, the Consultor inquired as to what might prevent its administration during Masses for the dead. He noted three things that might present an obstacle: 1. The color; 2. The words to be recited by the priest, especially during the Paschal season; 3. The blessing to be given to those who have received Communion. Regarding the color, he recalled the account, which is found in the work of Benedict XIV, *De Sacrificio Missae*, Book I, chapter 4, paragraphs 8, 16, 17, and 18, that at the beginning of the fourth century, priests and Levites used only white garments in the service; and that subsequently, other colors were introduced over time, namely red, white, green, and violet, although violet and black were used indiscriminately during those times; and that Innocent III established or confirmed the use of the color black in the sacred vestments throughout the entire season of Advent and Lent. He observed, however, that no distinction existed between Masses for the dead and other Masses with regard to color during those periods; nor can it be said with any probability that, during those long periods of time, the faithful did not receive Communion. Nor can black vestments present an obstacle in the present liturgical discipline, as if the matter were less fitting; since the celebration of the Sacrifice is performed with black vestments; and there are also cases in which, outside of Mass, the most august Sacrament must be given in a black stole, namely on Thursday of the sixth week of Easter, if the deacon cannot conveniently assist in opening the pyx, according to what is prescribed by the rubrics. Regarding the second point, he noted that the words to be recited by the priest, as indicated in the Ritual, when the Holy Eucharist is given outside of Mass, are not prescribed by precept: "The priest, returning to the altar, can say," which, moreover, are not to be recited within Mass! Finally, he inquired whether the absence of the priestly blessing could be a cause for preventing the faithful from receiving Communion, since they themselves receive the source of blessing; nor are they entirely deprived of the priestly blessing, since, before receiving the Eucharist, they hear the words directed to them in the sign of the cross, granting indulgence, absolution, etc.

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OBSERVATIONS OF THE THIRD CONSULTOR. The third Consultor addressed the same question, and, after accurately expounding the historical state of the question, he noted that there are so many valid reasons that demonstrate that it is permissible to administer the Eucharist during Masses for the dead.

[*Latin ed. p. 283*]

NDix vi. 283 The sacraments ought to be administered to the faithful with vestments of a color appropriate to the occasion, as is done in the Divine Office and on the days of Mass. It is fitting that this be done in Romana, so that the living may see and understand it. And recalling that the Church uses the color black on Feria VI, on the Feria of Preparation, and in all offices and Masses for the dead, as stated in canon 8 of the second session of the Council of Trent, whereas those Masses which are celebrated in black vestments, in which only the priest communicates, are those which are approved and recommended, it follows that the Author of the Constitution ought to have desired that the Mass for the dead be celebrated in black vestments, so that those who communicate in that Mass may, by the very color, be most closely connected with the faith against the Pistorian conspiracy, and that those present may, in each Mass, not only have a spiritual feeling, but also that, when communicating, they may receive the benefits of the altar, as is fitting. However, a Consultor raised a difficulty, namely, that they lack the blessing, since those who communicate receive within themselves the Author of all blessings, according to the words of Benedict XIV in op. cit., 1.3, chapter 48, number 44, and thus they would also communicate sacramentally in the Eucharist, so that the fruits of this most holy Sacrifice might be more abundantly conferred upon them. But these words ought to be understood of all Masses, whether for the living or the dead, and of those things which are read in each Mass, whether for the living or the dead; so that those who, by partaking of the altar, etc., receive, let us say, "nobis etc.," and the Communion and Postcommunion, may also understand. And it cannot be said that the black vestments of the priest cause pain; for it would be absurd for the Church to have prescribed such a color, and to have wished to introduce so great an exception to the liturgical laws and to the established custom, without having said anything about it, and to have forbidden something, and that on so slight a ground, which, although it is not of the essence of the Sacrifice, is nevertheless most closely connected with it. This, indeed, was confirmed by another Consultor, namely, according to the rubrics on color, paragraph 48: "par a cum Sacrificio."

This concerns the giving of Communion, with the particles consecrated in the Mass, and on this matter no further question is raised. But concerning the consecrated particles, and those taken from the custodia within the Mass, it is noted that no doubt is raised concerning Masses for the living;

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and indeed, rightly so, since the words of the rubric, "if there are any to be communicated, let him communicate them before they purify themselves," are entirely general and make no particular distinction. And furthermore, by the authority of theologians, it is shown that the faithful receive the same benefit whether they communicate with particles consecrated in the same Mass, or with consecrated particles, since they always partake of the altar; for they who eat the sacrifices are partakers of the altar, 4 Corinthians 40, and Hebrews 43.

[*Latin ed. p. 284*]

APPENDIX VI. Having now ascertained and confirmed that, just as in Masses for the living, it is permissible and indeed fitting for the faithful who are present at the Sacrifice to receive Communion from the altar, it follows that Communion for the people can also be administered during Masses for the dead, using consecrated particles. Regarding Communion, which the faithful receive outside of Mass, the Consultors, with reasons not to be dismissed, maintained that the Most Holy Eucharist cannot be administered with black vestments, according to the words of the Roman Ritual. For the Ritual prescribes that the priest should wear a stole of a color appropriate to the day; and no one has ever understood the color appropriate to the day to be a color suitable for Masses for the dead. Furthermore, the Roman Ritual, proceeding to the distribution of the sacred assembly by the celebrating priest immediately after Mass, states: "If, after the completion of the Mass, some are to be given Communion at once, then the priest, still wearing the Planet [a type of vestment], will administer the sacred Communion in the manner described above." This is also to be understood regarding Communion before Mass. Moreover, if, in the same manner as described above, the same rite is to be observed, then this rite is not compatible with black vestments. Again, if, in the same manner as described above, Communion is to be equated with that which is performed outside of Mass, that is, with the priest wearing a stole of a color appropriate to the day or at least suitable for the Sacrament of the Eucharist, then it is deeply to be noted that the priest can offer the Sacrifice for the dead with black vestments; and therefore, he can admit the faithful to participation in the Sacrifice of the altar, an action which is connected with the Sacrifice, as stated: for to doubt whether the Body of our Lord Jesus Christ can be administered to the faithful in Masses for the Requiem with black vestments is almost the same as to call into question whether it is permissible to celebrate Mass with black vestments. However, this reasoning clearly fails when it comes to Communion of the people outside of Mass. With this reasoning excluded, the liturgical law mentioned above comes into play: not that which some claim was requested due to the inconvenience of putting hands into the sacred custodia [receptacle] to take out the pyx [container], (which certainly does not prevent it from also being possible to consume the sacred species

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there, or to place the Sacrament there), but from the circumscribed use of the color black solely for Masses for the dead, and from the prescribed rite for administering Communion outside of Mass, which does not permit or completely excludes black vestments. Indeed, many things cannot be done in the sacred liturgy, he added, not because they are expressly forbidden, but because they are nowhere permitted, or because they are implicitly disapproved of somewhere, and the precept.

[*Latin ed. p. 285*]

IX. vi. Frequently, the consideration of one thing implies the exclusion of another; therefore, since the Ritual specifies what is to be done in the present matter concerning Masses for the living, and remains silent concerning Masses for the dead; and also, since it specifies the colors appropriate for the Sacrament, it seems that the administration of the Eucharist before or after Mass in black vestments is thereby excluded. However, this has been confirmed by external evidence, obtained from the opinion of Benedict XIV, expressed in the cited work, number [illegible], where it is written: "It must be concluded that the Eucharist can be distributed in Masses for the dead, either in those Masses or in another Mass, provided that it is not done before or after the Mass, but within the same Mass, after the Communion of the priest." This doctrine is of great importance, since the Promotor of the Faith held that office while this question was being debated; since this work was written, and subsequently the author was adorned with sacred purple; and since this work, by that Pontiff, has been again printed with a new and more extensive edition. Let it suffice concerning this unwelcome question, which certainly, after the solemnly promulgated Decree, with the full approval of the Holy Father, is extinct, and will not revive again.

[*Latin ed. p. 286*]

APPENDIX XI. CONCERNING CERTAIN INDULGENCES ATTACHED TO CROWNS.

Particularly in Gallus, certain leaflets are circulated with the following text:

"THE PARDONS OF THE SMALL, PRIVILEGED CHAPLET, granted by the Religious of the Annunciation and Daughters of the Most Holy Virgin Mary, founded by the Blessed, Holy Jeanne, Queen of France, Duchess of Berri, granted by the Supreme Pontiffs Alexander VI, Julius II, and Leo X, and confirmed by Pius VII, applicable to the souls in Purgatory."

"To the 10 white beads of the chaplet, one must say 10 Hail Marys in honor of the ten principal virtues of the Virgin, which are: purity, prudence, humility, devotion, chastity, obedience, poverty, patience, charity,

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and compassion. There are ten years of indulgence."

"To the 5 red beads, one must say 5 times the Our Father and Hail Mary in honor of the five wounds of Our Lord. There are ten thousand years of indulgence."

"To the 12 black beads, one must say 12 Hail Marys in honor of the twelve fruits of the Holy Sacrament of the Altar, which are nothing other than the twelve fruits of the Holy Spirit that this Holy Sacrament works in the souls who receive it worthily. There are twelve thousand days of indulgence."

"To each of the three large beads, one must say one Our Father and Hail Mary for the intention of Our Holy Father the Pope, and for the increase of the Catholic faith."

"The first Our Father is said in memory of the love that Our Lord has for souls."

"The second, in memory of what He suffered for the salvation of souls."

"And the third, in memory of what He merited for souls. There are three hundred years of indulgence."

"Furthermore, Pope Leo granted an additional one hundred days of indulgence for the ten Hail Marys, one hundred for the five Our Fathers, and one hundred for the twelve Hail Marys."

"There is one thousand years of indulgence simply for wearing it."

"These are the three devotions inspired to the Blessed Queen Jeanne of France, and which she distributed to the faithful, to draw them to the service of the Queen of Heaven, being the three devotions of the Holy Virgin."

We have seen copies of these leaflets not once in Rome, presented to the Holy Congregation for Indulgences, so that testimony might be given regarding their authenticity. Therefore, we have judged it not unworthy to make clear what in this matter should be considered certain, and what should be rejected as false.

Blessed Jeanne Yalesia, whose cult has been approved by the Blessed X, already Queen of Gallus (at a time when the faith of Christ the Supreme Lord did not disdain to shine).

[*Latin ed. p. 287*]

IX. VII. 287. She, who was among the diadems of the Emperors, the foundress of the Order of the Most Holy Annunciation under the Rule of St. Francis, also instituted a certain association, which was more frequently called the Order of Peace; and she prescribed rules, which, as is said, she received from God, and which were to be observed by all who would give their name to this order, or to this association, whether they were clerics or laymen, of both sexes. From the first red bead, a larger white bead descends, with ten white beads arranged around it, to which is attached a second, larger black bead, and this is successively and directly followed by five red

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beads, to which is attached a third, largest white bead, from which proceed twelve other black beads arranged around it. The practice of this sodality is threefold. Therefore, the Our Father and the Hail Mary are recited three times; ten Hail Marys are recited for the ten white beads; five Our Fathers and Hail Marys are recited for the five red beads; and twelve Hail Marys are recited for the twelve black beads, as has been said above. The first part consists in reciting the Angelic Salutation ten times, in memory of the ten outstanding virtues of the Most Holy Virgin, the testimonies of which are given by the Evangelists. The second part consists in reciting the Our Father and the Hail Mary, in memory of the Passion of Our Lord Jesus Christ, and the sorrows which the Virgin Mother, remembering the wounds and torments of her Son, suffered. The third part finally consists in reciting twelve Hail Marys in honor of the Most Holy Sacrament, to obtain the same number of benefits which this heavenly food grants to the faithful who approach the sacred synaxis worthily. Each of these three exercises begins with reciting one Our Father and one Hail Mary for the Supreme Pontiff, and for the concord of the Christian princes (who were then living). For the proper performance of these things, a suitable crown was devised, which is called the triple Rosary, consisting of thirty beads, or globules, with colors alternating between them, namely white, red, and black. Pope Leo X confirmed this pious sodality instituted by Blessed Joan, which is called the Order of Peace. The Blessed foundress strongly recommended peace in her rules, namely peace of heart, of speech, and of works. Furthermore, it is established that the Superiors and confessors of the nuns of the Most Holy Annunciation under the Rule of St. Francis have the power to enroll both men and women in this Order of Peace. As for indulgences, it is certain that this pious form of prayer and the sodality itself were from the beginning adorned with spiritual graces; but since these spiritual graces were not sufficiently granted, it began to be spread among the people, and through the hands of the faithful, certain leaves bearing the most generous indulgences were widely circulated, that is, those granted by the names of various Supreme Pontiffs, namely Alexander VI, Julius II, Leo X, and others. Therefore, from August 3, 1750, at the instance of...

[*Latin ed. p. 288*]

288 APPENDIX VI!. To the Archiepiscopal Consistory of Salzburg, to which the excessive grants of indulgences had appeared to be, and which were contrary to the practice of the Roman See, the Holy Congregation of Indulgences forbade the distribution of these documents. Subsequently, in the year 1755, the nuns of the monastery of the Most Holy Annunciation in Antenac, near the Rhine, concerned about the true knowledge of indulgences attached to this pious practice, petitioned the Holy See, also sending a copy of their indulgences, which were found to be apocryphal in the year 4750. Consequently, Pope Benedict XIV, after careful deliberation with the

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Holy Congregation and after investigation, ordered the following decree to be issued: "Our Most Holy Lord, Pope Benedict XIV, grants to all and to each Christian of both sexes who, during the course of an entire month, shall devoutly recite the Rosary, called the Triple Rosary of the Blessed Joan of Valas, once within that same month, on a day chosen by each person, and who, truly contrite, confessed, and refed by the Holy Communion, and who shall offer devout prayers to God for the concord of Christian princes, for the eradication of heresies, and for the exaltation of the Holy Mother Church, may obtain a plenary indulgence for all their sins. To those who, on each of the six days of Lent, and on each of the seven feasts of the Blessed Virgin Mary, as mentioned above, shall recite this Rosary, a total of seven years and seven quadragenaries [forty days] are granted. And finally, for each devout recitation of this Rosary, an indulgence of one hundred days is benignly granted for all time. All and each of the indulgences which were asserted to have been granted for the recitation of this Rosary are revoked. "Furthermore, His Holiness declared that in order to obtain the aforementioned indulgences, it is required that the Rosary be blessed according to the custom by the Superiors of the Order of the Annunciation of the Blessed Virgin Mary, under the rule of St. Francis, approved by the Apostolic See, or by any Ordinary Confessor of the nuns of that Order, and therefore, He grants to these same Superiors and Confessors the faculty to bless these Rosaries, and it is forbidden otherwise. "In the distribution of such Rosaries, and in their use, the Most Holy [Pope] ordered that the decree of the blessed and remembered Pope Alexander VII, published on February 6, 1657, be observed, namely, that such Rosaries, being blessed, should not be sold, or lent to others, or given out on loan, so that they may lack the indulgences already granted, and that no other indulgences may be substituted for any of them, unless they have been blessed by those mentioned above." Given at Rome on March 6, 1756. FR. I. CARD. PORTOCARRERO, PREFECT A. E. Vicecomes Secret. "After these things, everyone can see with what audacity these sheets of indulgences are still circulated, to which has been added the confirmation of the Holy Father, Pope Pius VII.

[*Latin ed. p. 289*]

289 IX S, CONGREGATIONE CONCILII, MATRIMONII. Die 19 Decembris 1868. Compendium facti. The matrimonial cause, whose synopsis we provided in the preceding volume, page 241, was presented under the following question: "Whether the judgment of the Archdiocesan Tribunal of Neapolis should be confirmed or rejected" in the case in question. The Eminences responded: "The judgment should be confirmed." Consequently, the marriage was declared invalid, because the contract was entered into before a parish priest who was not properly authorized for either of the parties. The Defender of the Marriage, not agreeing with this resolution,

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requested a new hearing, which he obtained, and also requested that certain documents be requested from the Neapolitan Tribunal, which he believed could provide new arguments in favor of the validity of the marriage. He believed that, from the records of the Tribunal that preceded the marriage, some delegation from the Ordinary could be found, whereby, if present, the marriage would have been certainly more valid. Therefore, the Eminences transmitted a document, by which the Tribunal had granted authority to the parish priest to perform the marriage between the aforementioned betrothed, namely Caecilia and Sempronium. The document in Latin reads as follows: "The parish priest to whom it pertains, after three publications have been completed, and no canonical impediment has been found, shall celebrate the marriage to be contracted between (Caecilia... and Sempronium...) in his parish church, according to the form of the Holy Council of Trent and the instructions of this Reverend Tribunal. Given, etc." Furthermore, a new deposition from the parish priest was transmitted to the Tribunal, sworn under oath, regarding the authority granted to him to order the three continuous days of publications, as well as regarding the permission obtained to bless the marriage. Deposition, volume IV, section XLII, 19.

[*Latin ed. p. 290*]

290. MARRIAGES. This matter is thus expressed in Latin: "I do not possess the document by which authority was granted to me to perform the denunciations for the marriage between Cecilia and Sempronium for three consecutive days... because it was not necessary to keep it... This was not understood by the Vicarius Generalis, nor was I granted the faculty by which I could lawfully assist in their marriage. Later, I was granted permission to bless the aforementioned marriage, when I submitted to the Curia the documents of the denunciations that I had made, in which I testified that a canonical impediment had been reported. This document, by which I was granted the faculty to bless the marriage, is the one that I now present..." Which is precisely what I have already stated.

Synopsis of the argument. Since this case is considered under a new light, it is worthwhile to recount another circumstance of the matter, which cannot now be passed over in silence without detriment to the cause. This circumstance is that the Parish Priest himself was not present at the marriage, but delegated another Priest to assist at the marriage.

DEFENSE OF THE MARRIAGE. The substance of the new defense consists entirely in this argument: It is established that a Bishop can grant his subordinates the faculty to contract marriage before any Parish Priest in his diocese; but the Vicarius Generalis, who, by virtue of the office entrusted to him, possesses episcopal authority, formally recognized the matter and granted the faculty to celebrate the marriage to the couple and the Parish Priest in the parish in which they then resided. Therefore, the marriage

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must be considered valid, even if the couple had not resided in that parish.

The Defender demonstrated the first proposition both from general principles of law and from the Resolutions of the Holy See in specific cases. And with regard to the specific cases, he referred to the following causes: To the Holy Congregation of the Council, on September 9, 1684, the following case was proposed by the Holy Penitentiary: "Fulanus" and Berta, intending to contract marriage between themselves, proved their state of freedom in the records of the Episcopal Curia, and requested that the Parish Priest be ordered to proceed with the three denunciations. "When questioned by the Notary, as to who their Parish Priest was, they answered (although by error and without contempt)."

[*Latin ed. p. 291*]

MARRIAGES. 291 "He was the Parish Priest of St. Demetrius, in whose parish they had previously resided, but at that time they did not live there. After the announcements were completed, and no impediment was found, the Ordinary, according to the authority entrusted to him by the Parish Priest, granted the customary permission, which was extended by the aforementioned Notary with the following wording: 'We grant permission to the Parish Priest of St. Demetrius to assist at the marriage between Fulanus and Berta, both of his parish.' Therefore, the marriage was celebrated by the aforementioned Parish Priest and witnesses. But after some time, Fulanus, reading a moral treatise by chance, found a passage stating that for the validity of a marriage, the presence of the Parish Priest of at least one of the contracting parties is required; therefore, after consulting with several confessors about what should be done, he decided to renew his consent with Berta before his own Parish Priest and witnesses. However, when Fulanus inquired about Berta's will, whether she would consent to be married to him in a case where he was not her own husband, he received an absolute negative response. Nevertheless, having recently learned that in the declarations taken from the library of Cardinal Bellarmine and printed in chapter 1, session 24 of the Council of Trent concerning marriages, the following is stated: 'Although not the proper Parish Priest, but another, with the consent of the Bishop, may assist, the marriage is valid, even if the Bishop believes that the Parish Priest was called; he conceived some hope of the validity of the marriage; but, to remove all doubt, he earnestly requested that it be declared whether the aforementioned marriage contracted between himself and Berta was valid.' To this, the Holy Congregation responded: 'Affirmatively.' Furthermore, the case of a marriage discussed in the Sacred Congregation of the Council on December 12, 1767, in Turin, is relevant. It is appropriate to recount the details of that case. The Archbishop of Turin, on February 13, 1751, ordered the Parish Priest of St. Thomas in the same city to join together in marriage, before the Church, John Anthony Peyrani, son of Paul, and Anne Casinelli,

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formerly of Joseph, both of Turin, and parishioners of his, provided that a single declaration for both parties preceded all announcements in each parish. After the announcements were completed, the marriage was celebrated on the 15th of the same month in the church of St. Thomas, before the Parish Priest of that church.

[*Latin ed. p. 292*]

292. MARRIAGES. After three years had elapsed, and at the request of Anne, the wife, a question was raised as to whether this marriage had been validly entered into before her own parish priest. The Archdiocesan court rendered a judgment in favor of its validity; however, the court of Vercelli, exercising its right of appeal, reversed the judgment and declared the marriage null. The case was brought before the Holy See, and it was debated on two points: namely, concerning the domicile or quasi-domicile that the bride possessed in the parish of Saint Thomas. It was certainly established that the bride had not possessed a domicile in that parish, but it was doubtful whether she had a quasi-domicile in the same parish of Saint Thomas. And in support of the claim of domicile, the defender of the marriage presented the following facts: "From the testimonies of the witnesses examined, it is known that, after moving from La Roche, in the month of September of the year 1750, the bride resided in the parish of Saint Thomas, at the home of her paternal grandparents, for the entire year of 1751, and that she spent every day in that parish, from morning until night, together with her grandparents; and that the bride herself declared that she had established her true domicile in the home of her grandparents. Therefore, the change of domicile made by her mother does not entail a change in the domicile of the bride, who resided daily in the home of her grandparents, and to whose domicile and family she was legally bound to follow, L 19 and 24 ff. concerning the status of a person (1)." However, the defender sought to refute this testimony from Anne based on statements made by other witnesses. The second argument presented by the defender in this case, before the court in Milan, was based on the aforementioned decree of the court, noting that the parish priest of Saint Thomas had been explicitly ordered to assist at the marriage, from which he concluded that it was not necessary to inquire whether the bride still had a domicile, or not, in the parish of Saint Thomas. The formula for doubt was proposed: "Whether it can be maintained that the marriage is null in the case:" The Holy Congregation responded: negatively. These points are presented to demonstrate the relevance to the first proposition mentioned above. Regarding the second proposition (which logicians call the minor premise), the defender in the present case asserted (1) These circumstances more easily establish a valid domicile for the celebration of the marriage, as was considered in Cesena on June 25, 1723. Compare what I noted in Volume I,

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page 13%.

[*Latin ed. p. 293*]

OF MARRIAGES. 293 By the testimonies of the aforementioned betrothed, who, before contracting marriage, were questioned by the Curia regarding their status, namely, whether they had ever left this city, under which parish they reside, whether they were married, or had vowed chastity or religious life, or had given themselves in marriage to another. Sempronius responded: "I have never left this city..." and that he resided in the district of the parish of N. (in which, indeed, they later contracted marriage). Likewise, Cecilia responded: "I have never left this city; I am unmarried and reside in the district of the parish of N." The same witnesses testified: "He resides in the parish of N." With these testimonies in hand, the Defender noted that the Vicarius Generalis issued a first decree, granting the aforementioned betrothed permission to contract marriage in the sight of the Church, observing the form prescribed by the Council of Trent and the ordinances of this Archdiocesan Curia, provided that no canonical impediment hindered them; for, from the information obtained, it is clear that both are free and unencumbered. He also noted in writing that the aforementioned were granted the opportunity to make announcements in the parish for three consecutive days. Finally, with no impediment reported, the Curia issued the aforementioned decree: "To the Parish Priest to whom it pertains, etc." From these facts, the Defender argued that the Curia had intervened in the entire matter of the marriage, and had sought to fulfill the desire expressed by the betrothed to contract marriage in the sight of the Church; therefore, it had requested nothing from them other than proof of their domicile in that city and their actual residence.

DEFENSE OF SEMPRONIUS. The Defender, at the outset, pointed out that, without a doubt, a Bishop can delegate any priest within his diocese to celebrate marriages, and he endeavored to demonstrate, from the documents presented, that in the present case, there was no such delegation. This, he argued, was evident from the very words of the document, in which, after the announcements, permission was granted to celebrate the marriage: "To the Parish Priest to whom it pertains..." among the betrothed N. N., in the parochial church of N. He observed that such wording clearly indicated that permission had been granted to the Parish Priest who was the proper one; and not that another Parish Priest had been delegated. Permission had been granted for the marriage, but not that the jurisdiction of the Parish Priest had been extended. And if these two were confused, then the act was...

[*Latin ed. p. 294*]

294. MARRIAGES. Concerning the decree of Trent which stipulates that

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marriages should be celebrated before the parish priest of the parties involved, the Defender maintained that the document in question also contained a delegation, and that, therefore, no marriage was validly declared. While the Defender readily conceded that a delegation granted by some Ordinary to a parish priest could render a marriage valid, even if the Ordinary, through his own error, considered the parish priest to be someone other than the proper one for the contracting parties, or if he was led into that error through the good faith of the contracting parties, he denied that this was the case if the Ordinary had been led into that error through the bad faith of the contracting parties. To support this, he cited the authority of the Sacred Roman Rota in the case of a marriage in Rome, on July 3, 1719, before the Cardinal, in which a case very similar to our own was considered. In that decision, the Sacred Rota stated: "Whenever an attempt is made to circumvent the law, it often happens that, through some detected machination, the matter turns out unfavorably, as is clearly demonstrated in this case, in which a marriage was sought between Joanna Catharina, a very respectable woman of over forty years of age, and Dominic Antonius, a young man with no experience, and, at the same time, intending to evade the decree of the Council of Trent, session 24, on the reform of marriages, chapter 1, she had previously, in the month of May, outside the usual times, arranged to be registered in the parish register of the church of St. Saviour on the Montes, as residing in the first part of the house of the Reverend Father Prosper Nunex, located on the Via Baccina; then, having presented witnesses, two women residing in the Conservatorio called Divina Providentia in Rieti, one of whom simultaneously testified to the residence of the aforementioned Joanna Catharina in the aforementioned parish of St. Saviour, and, having previously obtained the usual permission from the parish priest, directed to him for making the necessary announcements for the celebration of the marriage, the announcement was made on July 28, 1716. However, a few days later, the light of truth dispelled the erroneous assumptions, and the case concerning the nullity of the marriage contract was first brought before the Emissary Court, and a judgment of nullity of the marriage was rendered... Then, the case was brought before our Auditorium, and today, I, in accordance with a special commission, presented the arguments to all the Most Reverend Fathers, with due deliberation: - whether the marriage was valid, or rather, whether it was...

[*Latin ed. p. 295*]

MARRIAGES. 293 "The place for coercion or dower—it occurred in all things for the Lord"—Anthony reported a favorable response. "Nor was it the case that this substantial nullity of the marriage, celebrated before a foreign parish priest, could be avoided under the pretext of the license to contract marriage obtained from the Most Reverend Vicar, and directly addressed to the same parish priest of S. Salvator... because, although no

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one doubted that the license of the Ordinary would be valid where it clearly appeared that he intended to delegate another priest to assist in the marriage of foreign parishioners in place of his own parish priest, which is not infrequently done for reasonable reasons; nevertheless, it is customary that such a license be expressed in a different form, containing a delegation, as attested by the Notaries and Substitutes of the Most Reverend Vicar. Or, where even a material error concerning the nomination of the parish priest, with the license directed to him, is only on the part of the Ordinary alone, as was the case in the Resolution of the Most Holy Congregation of Councils, etc. Or, finally, where an error, without any contempt of the keys and without any fraud, is committed for the sake of a verified actual residence in the parish where the marriage was celebrated, on the part of the contracting parties themselves... "Nevertheless, with all the aforementioned circumstances absent from the present case, in which truly no indication of the residence of the contracting parties in the parish of S. Salvator is verified, and the license of the Most Reverend Vicar also contains no delegation of his parish priest; but is addressed to him not through the error of the Most Reverend Vicar, nor through the excusable hesitation of the contracting parties, but through the fraudulent machination of those who supposed him to be the true and proper parish priest... "Similar matters are repeated in the confirmatory decision of December 2, 1720, before Gamaches, and in the third confirmatory sentence of March 7, 1721, before the same, in which, however, in a fierce dispute between the parties, another objection was raised in these words: "The license, even in its ordinary form, is sufficient to cause the contracted nullity to cease, since where the consent of the Bishop is present, the spouses are rightly and duly joined by another priest, even if the Ordinary believes him to be his own parish priest; because for the validity of the marriage, it suffices that it be contracted before a priest with the license of the Bishop; nor did the Council require..."

[*Latin ed. p. 296*]

296. MARRIAGES. » concerning the intention with which, or in what manner, the Ordinary grants permission, but it was sufficient to grant the priest, who was not a parish priest, permission. » To this proposed objection, the Holy Roman Rota responded in this way: "However, all difficulty is dispelled by the observation that the aforementioned permission also suffers from the vice of deception and fraud; deception, because of the omission in the prayers of the true parish; fraud, because the error of the Ordinary concerning the true parish priest did not proceed from the error of the Ordinary, but from the fraudulent machinations of the contracting parties, who presented witnesses asserting that both were from the parish of Saint Salvator, which was discovered to be false in fact..." Therefore, since permission obtained through deception has no validity, and no one should be bound by their own malice, it was concluded that the theoretical objec-

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tions alleged for the validity of the marriage are valid only when the error is limited to the part of the Bishop, and there is no fraud or machination on the part of the contracting parties; on the other hand, in the hypothesis, the marriage contracted with deceptive and fraudulent permission remains entirely null and void. » To this teaching of the Holy Rota, the Defender of the Faith, Sempronio, responded to all objections made to the contrary; but this was not enough for him, for he considered another circumstance in the present matter, which was the power granted by the parish priest, N., to another priest to assist in celebrating the marriage. Therefore, assuming this hypothesis, he argued that the permission granted by the Curia to the parish priest was entirely sufficient to validly celebrate the marriage, and that the parish priest had invalidly delegated the power entrusted to him to another; and therefore, even in this hypothesis, the marriage was null. He endeavored to demonstrate this from general principles of law, stating that a mandatary cannot delegate jurisdiction, except in the case where he has been delegated by the Prince. Z. 6 ff. concerning jurisdiction, in which it is written: "According to the customs of our ancestors, it has been established that only he can delegate jurisdiction who possesses it by his own right, not by the benefit of another." Also, L 5 ff. concerning the office of him to whom jurisdiction has been delegated, in which it is written: "It is manifest that he to whom jurisdiction has been delegated cannot delegate it to another." These texts are illustrated by Voet, an expert in civil law, in book 2, title 1, on jurisdiction, number 11: "But just as legitimate, or extraordinary, jurisdiction cannot be delegated, so neither can that which has been delegated to another by..."

[*Latin ed. p. 297*]

MARRIAGES 297: "The mandator is rightly mandated, according to law, in the sections concerning his office, and in the sections concerning jurisdiction." For, as stated before, he acts in the place of and in the name of the mandator, and thus he exercises his authority for the benefit of another, having nothing of his own; indeed, he is not even empowered to perform such an action in such a way that he himself would cease to have jurisdiction, and that jurisdiction would pass to the mandator, so that the latter would exercise it as his own right; for no magistrate can, by abdicating, lose his authority, as stated in the sections concerning the office of prelates. Nor, if it were even possible, would he thereby have the right to transfer that authority to another; but rather, by such an abdication, he would only divest himself of the authority with which he had been endowed, an authority which could then be conferred upon another by the Prince.

The same doctrine is affirmed in canon law by the Defender, from chapter 62 concerning Appeals, at the end, where these words are found: "For only a delegate from the Prince can validly delegate a case to another."

THINGS ADDED BY REASON OF OFFICE. – The arguments presented

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by the Defender Sempronii are strengthened by other valid authorities, by reason of office. For it is undoubtedly the case that a marriage begun without the presence of the proper parish priest, or another priest with the license of that priest or of the Ordinary, is null; and it is considered that such a license is entirely different from the license that is commonly granted by Ordinaries to parish priests to assist in celebrating marriages; for in the latter case, jurisdiction is not delegated; whereas, in the former case, true jurisdiction is delegated. In the license given to the parish priest by the Curia, "there is not contained a delegation, but a simple permission, given with due consideration of the proof made concerning the freedom of the parties." The Sacred Roman Rota, in Naples, in the matter of Marriages, on June 22, 1767, examined a case very similar to our own before the parish priest, and held that there was no delegation, because, setting aside other considerations, the words: "observing the form of the Council of Trent," would entirely contradict the intention, and because, since delegation is an act of the will, such a delegation could not be present without the will of the delegating party. The doctrine of the Sacred Roman Rota is in agreement with the doctrine of the Sacred Congregation of the Council, in Farfa, in the matter of Nullities of Marriages, of May 26, 1707, as also stated by Cardinal De Luca in the Concilia Disputationes, 26, number 25, on Marriages, Disputation 1, chapter 4, and following, who in number 7 states: "It would be the greatest absurdity, if such licenses, which are granted to parish priests, were to..."

[*Latin ed. p. 298*]

298. MARRIAGES. "The power, and whatever action is taken with one's own subjects, could be brought about in such a way that fraud could easily be committed; since, in this manner, the forms mentioned could be reconciled, which would remain empty and void." It must, however, be observed that something else is to be said when the celebration of the marriage is entrusted to a priest who is not of the proper jurisdiction due to a material error of the same Ordinary, as, omitting the other things already alleged, in Salen, as reported by Barbosa in *Summ. Apost. Decis.*, book 4, section 6, number 6. On the contrary, if the Ordinary has fallen into error through fraud, as in the aforementioned case in Neapolitana, concerning marriages before Priolo, etc. Finally, with regard to the delegation made by the priest, as mentioned above, in addition to the other things, the authority of Pirrhing is added, who, in *De Offic et Potest. Iud. delegai*, title 23, section 1, paragraph 4, speaking about delegation for marriages, wrote: "However, for it to be valid, it is necessary that the Ordinary expressly entrust to that priest to whom he delegates, so that, if he himself does not wish to assist, or cannot, he may substitute another priest; because then that priest who is substituted assists with the license of the Ordinary; and this is required by the Council of Trent for the validity of the marriage, for there it is required

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that another priest, with the license of the same parish priest or Ordinary, assist at the marriage, and indeed with the express license of the same." With these and other considerations, the purpose is to resolve the doubt: "Whether one should adhere to or depart from the decisions in this case."

RESOLUTION. — The Holy Congregation, after again discussing the case on December 19, 1868, considered it appropriate to respond: In the decisions.

FROM WHICH ONE CAN GATHER: I. That the faculty that Ordinaries can grant to any priest to assist at a marriage should not be confused with the faculty that Ordinaries may sometimes grant to parish priests to whom it pertains to celebrate the marriage. II. That the former faculty contains a special deputation, by which the faculty to assist is granted to a priest who lacks that faculty; while the latter contains the customary declaration, by which, for a briefly known reason, it is signified that the parish priest to whom it pertains can properly proceed with the marriage.

[*Latin ed. p. 299*]

The provided text does not contain any quotations of Luke 20:22. Therefore, no changes are required.

MARRIAGES! 299 III. This power can be understood in two senses: 1° It is permissible for you to assist at the marriage of these spouses, if it pertains to you according to the law of Trent, as I suppose; 2° It is permissible for you to assist at the marriage of these spouses, whom I believe to be your parishioners. IV. The power conceived in the first sense, without a verified condition, does not seem to authorize assistance at the marriage; the power received in the second sense, even without verification, does authorize assistance at the marriage. V. I have stated that St. Rotam believed that this power, granted conditionally, did not authorize assistance at the marriage if the spouses had obtained it through deceit or fraud from the Ordinary (1). (1) I said that St. Rotam believed this; for I could not find any resolution of the Holy Congregation from which this could be deduced. Fagnanus, in Cap. Quod Nobis, de Clandestin, despons. n. 55, asks: "Is there any marriage in which a priest, by order of the Bishop, participates, if the Bishop is deceived, believing the priest to be the parish priest of the contracting parties, when he is not?" and he answers: "When this doubt was declared to the Holy Congregation by Bishop Amerinen, the Holy Congregation judged it to be valid." And the same author gives this reason: "In these terms, it is clear that the Council intended that, for the validity of the marriage, it should be sufficient that the license of the Bishop be obtained before the priest, even if such a priest is not the proper parish priest; nor did the Council require that the intention with which the Bishop granted such a license be known, but it was sufficient that the license be given to a priest, even if he was not a parish priest. In this case, the Bishop granted a license to a priest who was not a parish priest; therefore, the marriage is valid, and

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in this case, a judgment must be pronounced in favor of its validity." Also, Barbosa Apost, decis. Collect. 465 n. 6 wrote: "A marriage contracted before an alien parish priest with the license of the Bishop is valid, even if the Bishop intended that such a marriage be committed only to his own parish priest, as the Holy Congregation decided in Salen., as reported by Sellius in Selectis Canon. c. 8 n. 73." Also, Bellarminus, loc. cit. from the sentence of the Holy Congregation, says: "Even if he is not the proper parish priest, but another, with the consent of the Bishop, participates, the marriage is valid, even if the Bishop believed that he had been called as the parish priest." Cardinal De Luca, who deals with this matter, reports a Roman cause of Nullity discussed on April 23, 1667, De matr. discur. 1, with these words: "After a long conversation that Franciscus had with Cassandra, who led an immoral life in the house for a year in the parish of St. Mary in Campitue; when Franciscus intended to take her as his wife, he feared that it would become known to Ascanius, her father, in whose house she lived in the parish of St. Augustine, the woman took care to frequent the house of a certain woman who was well-disposed in the parish of St. Nicholas, so that she would be seen there, although at night she returned to her usual home; and she obtained from the Vicegerent a direct license for the parish priest of St. Nicholas to join this woman as if she were his subordinate."

[*Latin ed. p. 300*]

ON MARRIAGE. VI. The parish priest, who is not the proper pastor of the contracting parties, but to whom permission to officiate at the marriage has been granted by the Ordinary, cannot, by virtue of this license, appoint another priest to assist at the marriage, under any condition or circumstance whatsoever. V. In the present case, even if it were assumed that the license granted by the Ordinary was not subject to any condition, by virtue of this license, the parish priest would have invalidly appointed another priest (1) to officiate at the marriage, which they had seen "reside in this parish," for the celebration of the marriage "before him, with a dispensation from the announcements." However, the father of the man, concerned, took steps to have a cause for the nullity of the marriage introduced before the Vicar-General. But, according to a Rescript from the Holy See, considering the woman's poverty, the case was referred for summary judgment to the Sacred Congregation of the Council, from which, on April 23, 1667, a Resolution was issued regarding the validity of the marriage, although not without a significant division of opinions; therefore, a new hearing was granted, but it remained without effect, since the death of the man ended the controversy. To these, add the two cases which the Defender of the Marriage brought forward in our question. (1) In law, it is a principle that he who has a delegated jurisdiction cannot delegate it to another, unless he has been delegated by the Prince, due to the eminent and abundant authority of the Prince: and there are cases in which even he who

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has been delegated by the Prince cannot delegate further, as happens, for example, when the Prince appoints a person for a certain matter because of his personal expertise, suitability, diligence, etc., or when he grants him a favor without mentioning the power to delegate further; on this matter, see what is noted in Aurelian, which I cited on page 105. Although he who has delegated authority, not from the Prince, cannot delegate the same authority, there is a case in which he can validly delegate it to another; that is, when the Ordinary, or he who is endowed with ordinary jurisdiction, delegates it with the power to delegate further. In this case, the most eminent Voet states the matter clearly in the place cited above, n. 12: "The Praetor can delegate his jurisdiction to another, so that the delegate does not delegate his own jurisdiction, but the jurisdiction of the Praetor who delegates, and thus it happens that he no longer acts in the place of the Praetor, but that a third person exercises the jurisdiction in the place of the Praetor." In the case we have been discussing, if the parish priest had been given sufficient authority to officiate at the marriage, he would have invalidly delegated it.

[*Latin ed. p. 301*]

301 SERVICES OF THE CHOIR. September 18, 1868. Summary of the case. In the cathedral church of N., the custom had prevailed of serving the choir in turn by the week, even during the time of Advent. The Apostolic Administrator, who governed that church, when attending to the sacred visitation, discovered this custom to be contrary to the statutes of the diocesan synod; therefore, he considered it necessary to present the entire matter to the Sacred Congregation of the Council, from which he received a response: it is necessary, that the Canons be invited to present their case, why they do not all serve the choir daily, according to the sacred canons, and if they have a legitimate reason, why they do not attend the choir on those days which are, by institution, excluded, and generally are common days. If anything contrary to the law is discovered, and the Canons wish to maintain the custom which has prevailed, this matter must be brought to the attention of the Sacred Congregation, which will interpose its judgment. Having obeyed these mandates, the Apostolic Administrator immediately did so, but the Canons delayed in responding; upon learning this, the Sacred Congregation gave a new mandate in these words: To the same Bishop, who should indicate to the Chapter another term of two months to justify the alternative method of choral service, so that, if this time should pass without result, he should transmit, through the Fiscal Procurator, documents pertaining to the matter, so that the Sacred Congregation may, as is right, provide what is necessary. After this decree, the Canons presented their rights.

A SYNOPTIC DISCUSSION. WHAT THE CANONS ALLEGED. The Canons, therefore, invoked the Capitular statutes, approved by the Bishop

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on September 15, 1727, in which no obligation to serve the choir during the time of Advent is found. Indeed, they stated that, in those statutes, it was expressly stated that choral service should be performed during the time of Lent, and also that it should legitimately follow the feast of Corpus Christi, and that the time of Advent had been excluded from the rule – the inclusion of one, the exclusion of the other. They did not oppose the diocesan synod, since the same Bishop had been the author both of that synod and of the Capitular statutes, which were approved by him after the synod celebrated in the year seventeen. From this, it should be presumed that they had legitimate reasons.

[*Latin ed. p. 302*]

302. SERVICES OF THE CHOIR. These had been abolished by the diocesan synod. Moreover, on the same day and in the same year, and by the same Bishop, the same capitular constitutions were approved for the cathedral church of G., which at that time was united with the cathedral of N., of which we are speaking. Furthermore, the Canons invoked an "immemorial custom" which no Bishop had ever questioned, nor had anyone ever attempted to oppose; nor could the Council of Trent, session 24, chapter 12, on Reforms, be invoked to the contrary, in which it is stated that it is not permitted for Canons to be absent from their churches for more than three months in any year by virtue of any statute or custom; whereas the Holy Congregation of the same Council declared on February 21, 1578: "The privileges of foundations, by which Canons may be absent for more than three months, are not derogated from by the Council of Trent." Therefore, they argued, it was surprising that, in the very city, apart from the patriarchal churches, there were chapters in which choral exemptions of more than three months were permitted. And since the matter of alternative service during Advent was being discussed, some cathedral chapters were named that maintained this practice. Moreover, they presented a choral service schedule, arguing that the choral service extended to ten months and sixteen days, so that they did not enjoy a three-month vacation each year.

WHAT THE BISHOP ARGUED. On the contrary, the Administrator Bishop maintained that the capitular statute contradicted custom, the diocesan synod, and the Council of Trent. First, he showed from the records of the Visitation that in 1704, under the article "Concerning the service and discipline of the choir," it was noted: "The Dignitaries, Canons, and Chaplains are bound to attend 'the service of the choir,' not 'only in number,' but also 'in addition,' albeit in alternating 'weeks,' so that every day, on weekdays, there should be 'half' of the Canons and Chaplains present." However, they do not enjoy the 'alternative' service during the entire time of Advent and Lent, nor on Sundays and holy days by order; in which all must attend." Almost the same words were noted in the

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subsequent Visitation. But not only did the Bishop note that the capitular statutes openly contradicted custom, but also the diocesan synod: indeed, in 1710, alternative choral service was permitted.

[*Latin ed. p. 303*]

SERVICES OF THE CHOIR. 303 These, however, with the addition of this clause: except during the time of Advent and Lent, and also during the octave of the Body of Christ, during which times we desire all choirs to be fully engaged. Furthermore, the same Prelate sought to confirm this from the Council of Trent, chapter 12, session 24, in comparison with chapter f, session 23, concerning Reforms. He added that he did not find any difficulty in approving the statutes of the chapters by the bishops; since the Roman Council, in the year 1725, when dealing with the approval of chapter statutes, explicitly instructed the bishops not to approve anything contrary to the law and the decrees of the Council of Trent (1). It was, however, wrongly asserted that the canons were resorting to custom, when this was undermining the very foundations of divine worship and ecclesiastical discipline. In opposition to the list or schedule presented by the canons, he noted that they had calculated for each day of service, a single supplication, a single solemn Vespers, and each anniversary. He concluded that, with this calculation, the choral service did not amount to nine months.

THINGS ADDED BY ORDER. These, according to the discipline of the Holy Congregation of Rites, are noted as follows: The Council of Trent, session 24, chapter 12, concerning Reforms, abolished the statutes that granted a vacation longer than three months; and there were some who did not believe that this had been abolished by the Council, maintaining that it was an immemorial custom for canons to be absent for more than three months. The Holy Congregation, however, rejected this opinion in the year 1581, with these words: "The Holy Congregation judged that it was not permissible for prebendaries, by virtue of any custom, even an immemorial one, to be absent from their churches for more than three months." Lib. 3, decrees, page 189. Although, later, it declared that the custom of serving for weeks had not been abolished by the Council, it nevertheless decreed that it could have a place, provided that they served the church for nine full months, as in Cassan, in the month of June 1659, with these words: "The Holy Congregation judged that the manner of serving for a week had not been abolished by the Council, provided, however, that they serve the church for nine full months, according to Chapter 12, session 24." Lib. 6, decrees, page 13. If, at times, vacations for several months have been granted to chapters and collegiate bodies by concession, except for certain times (1).

[*Latin ed. p. 304*]

304 SERVICES OF THE CHOIR. Concerning Advent and Lent, as in

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Terraconen, on February 18, 1764, in which, the Chapter of the collegiate church of Reus, which consisted of the Prior and thirty-six canons, had requested permission to be absent from the choir for two months, and the question was raised: "Whether and how this request should be granted," a decree was issued: Affirmative for four canons, by turn, and for only two months, and with the usual stipulations, namely, that all canons must, during the times of Advent and Lent, on all feast days and more solemn days of the Nativity and Resurrection of our Lord Jesus Christ, of Pentecost, of the Most Holy Body of Christ, and throughout the entire octave of the same, and at other times approved by the Ordinary, be present and regularly serve. However, the matter was brought up again under the question: "Whether the stipulations appended to the decree should be moderated, or rather, whether the number of canons who may be absent in such a case should be increased," and on March 23, 1765, it was decided: Negative regarding the first part, and affirmative regarding the second, for six canons only. At times, due to the scarcity of income and other circumstances, greater leniency was granted, as in Cathacen, on November 25, 1689: for the canons had complained of a decree of the Bishop which disapproved of a custom by which each canon served on Sundays and solemn days, but on other days alternately; and after discussion, the question was raised: "Whether it is permissible for the canons to serve through tertiaries [lay clerks]?" The Sacred Congregation responded negatively, in Lib. decr. AS, page 567. However, when the canons were granted a new faculty, and the question was raised: "Whether one should adhere to or recede from the previous decisions," on September 5, 1699, the Sacred Congregation persisted in its previous decisions, but, considering the scarcity of income, it decided to grant the canons, as a favor, that throughout the entire year they might serve by halves, that is, by half of their number, alternating weeks, at Masses, Matins, and all hours, provided that on Sundays and feast days, during Advent and Lent, and during the octave of the Nativity of the Lord, of Easter, and of the Most Holy Body of Christ, more than half of the canons who were to serve would attend Mass and Vespers. Lib. 49, decrees, page 311. Also, in the case of Castrimaris, when on February 6, 1734, an order had been given to the Bishop to arrange the service of that church according to the prescriptions of the Council of Trent, and not to permit absences for more than three months, the canons, having obtained a new hearing, explained, from

[*Latin ed. p. 305*]

SERVICES OF THE CHOIR. In the year 1587, due to the unhealthy air and meager revenues, the Apostolic Vicariate granted permission for the clergy to serve the choir through laypersons, and this was confirmed on several occasions during the Visitations by various Bishops. Regarding this matter, the following question was posed: "Whether it is permissible to

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maintain or to relinquish the practice." The response, given on July 30, 1735, was: "It is permissible to grant an indulgence, so that they may serve through laypersons, according to the form of the Rescript in Catanzaro."

SERVICES OF THE CHOIR. Finally, in Ferentina, on August 3, 1782; since it was customary in the cathedral church for the choir to serve alternately every week, even during the seasons of Advent, Gaudete Sunday, and the Fourth Sunday of Lent; and since the Canons claimed an ancient and venerable custom, as well as the harshness of the local terrain and the difficult access to the Cathedral during the winter due to snow, the following question was posed: "Whether and how the Chapter of the Cathedral Church of Ferentina is obligated to serve in the choir during the seasons of Advent and the Fourth Sunday of Lent." The response of the Sacred Congregation was: "Affirmatively, according to the usual practice, considering the circumstances of the case."

Regarding the question: "Whether and how the alternating service of the choir should be maintained during the season of Advent in this case."

RESOLUTION. The Sacred Congregation of the Council decided on September 12, 1868: "Negatively, and all Canons are to be held to the service of the choir."

FROM WHICH WE CAN CONCLUDE: 1. The Council of Trent did not indiscriminately grant the Canons three months of vacation, but rather restricted them to longer vacations of three months. 2. This decree derogated from even ancient customs, but did not derogate from the privileges of foundations.

(1) In their defense, the Canons cited a certain Resolution of the Sacred Congregation, as previously quoted, with these words: "The privileges of foundations, by which it is permitted for Canons to be absent for more than three months, have not been derogated from by the Council of Trent." However, they did not correctly understand this Resolution. For the privileges of foundations consist in the privileges granted to the founders, who, at the time of the founding, can add laws that they prefer, and ecclesiastical authority finds it very difficult to derogate from these laws. Who would be prohibited from founding a Canonry with the obligation to attend the choir only once a year? Compare, if you wish, what I have written in Volume II, pages 316 and following.

[*Latin ed. p. 306*]

306. SERVICES OF THE CHOIR. I. It is not permissible to alter the method of serving the choir by alternating weeks, unless, provided that this method is observed, the Canons enjoy no more than three months of vacation per year. II. Canons are not permitted to use their vacation during the more solemn times of the year, so that the people in the church are not deprived of the presence of the clergy, at a time when either

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the Church rejoices or pours forth prayers of penance. V. Therefore, the custom introduced whereby not all the Canons serve in the choir during the time of Advent, if it were to be brought to judgment, would not be easily sustained (1).

REVISION OF DECREE. December 19, 1868. Summary of the case. In the town of the diocese of N., there are two parish churches: one under the invocation of St. Peter, in which there is an Archpriest and five Beneficiaries, each having distinct and separate benefices, with the obligation of celebrating 59 Masses each year, either read or sung. The other is under the invocation of St. John the Baptist, in which there is an Abbot and three Beneficiaries, to whom is also attached the obligation of celebrating 181 Masses each year, either read or sung. From the most remote times, a praiseworthy custom has prevailed, that in such churches, more sacred functions are celebrated in the manner of cathedral or collegiate churches, so that certain Masses are solemnly sung on fixed days by all the Beneficiaries present, solemn Vespers are celebrated, etc. (1) I said if it were to be brought to judgment; for it is known that the Roman Pontiff Innocent III, easily the most learned in the knowledge of the sacred Canons, handed down in chapter "Cum Iamdudum" 18 concerning benefices, these words: "Many things are tolerated through patience, but if they are brought to judgment, by the demands of justice, they should not be tolerated." Let our readers remember this principle, if there are any among them who may perhaps be involved in the cases we present. They should not be troubled by scruples in these matters, but should refer the matter to the authority of the bishop, who has the duty, according to his prudence, to demand the execution of the sacred Canons; and if the authority deems it best to remain silent, then they themselves should rest.

[*Latin ed. p. 307*]

CONCERNING THE DECREE OF THE ESTABLISHMENT. 307 All these things, as well as the pious endowments, the revenues of which are common, are observed; however, the beneficiaries are bound by the obligation of residence, so that they may fulfill the same sacred offices through any suitable substitute priests. In the year 1756, this quasi-possession was disturbed by those not subject to the obligation of residence, and a lawsuit was brought to maintain the right to that quasi-possession. In the year 1772, when certain abuses had occurred, the Bishop, during the Sacred Visitation, decreed that a suitable fine should be paid by any beneficiary who, without a legitimate reason, was absent from his duties. In the year 1830, the Bishop found similar abuses; therefore, having consulted the Sacred Congregation, he inquired whether the Bishop could compel absent beneficiaries, who had not appointed a substitute, to properly perform their own duties. To this, the Sacred Congregation responded: The Bishop can not only decree that absent beneficiaries, who

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have not appointed someone to take their place in the choir, should be deprived of the emoluments, which should be distributed among those present, but also impose a fine, as prudence dictates. This response from the Sacred Congregation made it clear to all those concerned that everyone should strive to diligently and promptly perform their duties. However, in the year 1850, the Bishop found that these beneficiaries were only negligently fulfilling the duties mentioned above; therefore, during the Sacred Visitation, he decreed: "That those above-mentioned should strive to diligently and promptly perform the duties we have mentioned on the appointed days and hours, and if anyone is found to be negligent in the future, we wish to declare that they shall be subject to a monetary penalty, so that whoever refuses or neglects to attend Mass, whether for the living or the dead, or arrives after the *Kyrie Eleison* in Abbeydorney, shall pay half a shilling (or six pence); and whoever neglects to perform the Vespers in the choir on feast days, or to recite the office for the dead there, or arrives after the first psalm has been completed, shall also pay half a shilling, as often as this occurs. Furthermore, if anyone on feast days, or on the days of the First Class, or during the three Benedictions of Candles, Ashes, and Palms, or during the last three days of the greater week, or on the commemoration..."

[*Latin ed. p. 308*]

308 REGARDING THE DECREE OF THE POSITION. "Concerning the omission of all the sins of the faithful, or if this omission has occurred in the longer litanies, each negligent person must pay the full amount (or ten obols) each time. This decree did not affect Beneficiary N., who resided in Rome since the year 1856. He asserted that he could not find a priest to take his place, and that he had been obligated to pay fifteen Roman scudi annually for three years of absence, and that such payments were insufficient for the needs of the Benefice. He supplicated the Most Holy Father to declare the Bishop's decree invalid. Upon being questioned, the Bishop stated that, after deducting expenses for the burdens inherent in the Benefice, Beneficiary N. had a remaining annual sum of 78 scudi. However, he pointed out that, although the College of Beneficiaries had been established, it did not seem that each individual was obligated to personally reside there; rather, it was certain that, even by custom, they should provide for someone else during their absence; moreover, certain duties were included among their obligations, which they were required to fulfill either personally or through another. Several things were observed regarding the customary practices, which seemed to be beneficial in both respects. The question arises: "Whether and how the Episcopal decree of September 16, 1850, is to be maintained in this case."

RESOLUTION. — The Sacred Congregation of the Council decided on December 19, 1868, to respond affirmatively and further. FROM WHICH IT

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IS UNDERSTOOD: I. That a long-standing custom, beyond the prescribed law, obtains the force of law, if the acts are repeated or, by their very nature, imply an obligation, or are considered obligatory by common opinion (1). II. That choral offices, whether prescribed by law or by custom beyond the law, pertaining to the benefices held by Beneficiaries, are included under the general laws appropriate to their nature, just as the offices of Canons are included (2). III. That in the offices to be performed, where the same rule of law applies, that same rule of law must prevail. (1) See the notes on Custom in Vol. I, page 461. (2) Compare this case with a similar one in Vol. I, page 285, and following.

[*Latin ed. p. 309*]

309 DECREES. Dated September 12, 1868. Summary of the case. A Canon of the Metropolitan Church of N., in the year 1864, was condemned by the judgment of the Italian government to imprisonment, due to his co-operation in the escape of a certain young man who had deserted from military service, due to his obedience to the Roman court, and due to his aversion to the present order of government. Therefore, exiled from his homeland, he petitioned the Supreme Pontiff, so that, with the impediment continuing, he might be excused from the obligation of serving in the choir, in order that he might earn his living and receive distributions. After prior notification to the Archbishop, the Most Holy Father, on January 8, 1866, granted prayers for a period of six months, with the condition that he would lose those distributions which are given to those present. After these six months, the petitioner again presented prayers to the Holy See, and on July 27, 1867, he obtained another Decree by which the grace was extended for another two months, with the added clause that he should attempt to remove the obstacles which prevented him from returning to his own seat, by relinquishing one-third of his income. The petitioner did not comply with this Decree; therefore, he again petitioned that the Resolution of the Sacred Congregation, dated July 8, 1865, in the case of Nucerina Paganorum, be applied to him, in which it was decided that certain Canons, who were compelled to be absent for a similar reason, could receive all their fruits and distributions, even those that were extraordinary (1). These prayers, presented to the Sacred Congregation, were, as is customary, referred to the Ordinary, who, among other things, responded: "Regarding the most recent prayers of the Canon, residing in Rome, concerning all his canonical income and other extraordinary benefits, not only for the future, but also for the past time... I consulted the Chapter, canonically assembled, and I received a written response, by secret votes, by virtue of which the capitulars refer to the capitular resolution of May 16, 1867, in which they favored the petitioner, provided that he relinquish one-third of the distributions or income, both for the past and for the future. (1)

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Compare this case with the one I mentioned in Vol. U, page 407.

[*Latin ed. p. 310*]

310 DECREES. "In the case of the petitioner, it has already been observed that his absence was, in a certain sense, the cause of his own situation, because he was not compelled to involve himself in matters alien to the sacred ministry. " And a little later: "Furthermore, in our Archdiocese, several individuals, for legitimate reasons, such as for the care of their health, for the performance of the duties of a Vicar General, or for the carrying out of the duties of an Auditor for the Apostolic Nunciature abroad, have been absent from their proper residence in recent years, and have not received the customary fixed allowances." Thus far, the chapter. Synopsis of the discussion. Since the entire question revolved around whether the indicated decree should be put into effect, certain arguments were presented, some in favor of an affirmative decision, and others in favor of a negative one. The Constitution of Boniface VIII, which was mentioned in chapter one, concerning non-residents, in sections 6, which emphasizes its observance, was recalled. In that Constitution, only those were excepted who were excused from residence by urgent and reasonable bodily necessity or by evident benefit to the Church. Thus, it is written therein: "But those who receive anything from these distributions (except those whom infirmity, or a just and reasonable bodily necessity, or evident benefit to the Church excuses) do not acquire ownership of what they have received... Regarding the distributions also for the anniversaries of the deceased, we decree that the same should be observed." Furthermore, it did not appear that the petitioner in the present case could certainly invoke similar and analogous reasons for receiving distributions. Considering the various types of distributions, some of which are drawn from the common fund, such as those that are daily or those that are called "present," while others are from external sources, such as those that are called "uncertain," of which some are fixed and others are occasional and manual, with regard to the uncertain distributions, since these come from pious bequests or donations, and they are considered to have been left with the intention that they should be used by those who...

[*Latin ed. p. 311*]

RESOLUTIONS. 311 Those who actually participate in the celebration of the sacred functions, it did not seem possible to deny them the benefit derived from the Canon's office. Moreover, it was stated that the Canon himself had been absent for a time, and that the custom in that Chapter was not to grant these distributions to those who were legitimately absent. However, it was observed that the orator was arguing in vain that the alleged resolution in Nuceria Paganorum applied, since the orators to whom it referred had not experienced fortuitous circumstances, nor were other

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circumstances present in that case.

THINGS THAT WERE ADVERSE TO THE CANON. — On the contrary, it was noted that, according to the law, the Canon was to be considered present, even though he was absent due to the fear of unjust imprisonment, as stated in *Fagnanus c. Licet de Praeb.*, n. 15; *S. Congr. C. in Lancianen.*, February 16 and May 8, 1627; and also from *Reatina*, September 9, 1815, and from *Ferenlina*, on the same day and year; in which cases it was asked whether those who had been deported or had fled voluntarily under the French regime, in order to avoid taking an oath, had received the fruits of their benefices and distributions during their absence. In the present case, the same principle seemed to apply, since it was stated that the Canon had been sentenced to a year of imprisonment according to an authentic copy of the civil sentence, because he had acted against the actual order of government and because he had disobeyed the Roman court. Furthermore, it was observed that the orator had not failed to take appropriate measures to remove the obstacles that prevented him from residing there, as the Chapter itself had testified on May 18, 1867. Therefore, if the orator had not succeeded in removing the obstacles, his absence from the choir should not be imputed to him. Moreover, it was not easy to argue that the Canon had incurred the penalty of imprisonment by interfering in matters alien to the sacred ministry; to this objection, the suppliant orator replied that he had not given occasion for such a condemnation, nor did it appear from the tenor of the sentence imposed. Furthermore, it was certain that, when dealing with Church ministers, any, even slight, indication was sufficient for the judges of the Italian government to impose a condemnation upon them. However, these circumstances did not appear to provide a reason why the third part of the revenues should be denied to him.

[*Latin ed. p. 312*]

312 DECREES. Concerning daily distributions, and then concerning fixed, non-daily distributions. With these various Decrees of the Holy Congregation, the purpose is to resolve the question: "Whether and how the Decree of the Holy Congregation of July 27, 1867, should be implemented." RESOLUTION. – The Holy Congregation of Councils, on September 12, 1868, decided to respond: Affirmatively, according to the manner; namely, by extending the Indult of January 8, 1866, until the year counted from the date of the present Resolution, with the clauses contained therein. FROM WHICH WE GATHER: I. That those chapter canons, who, through fear of imprisonment and other punishments (which are unjustly and violently imposed by civil authorities), are absent from residence, are to be considered present as a choir, as long as the violent cause of their absence persists. II. That such a fictitious presence does not always produce the same effect: but only those whose absence is justified by a more or less valid reason, and whose absence is easily tolerated by local

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custom. III. In the present matter, it has been given as an opportunity for their absence that the canons have acted with less than due deliberation: and that the custom has prevailed in that chapter of not granting fixed distributions to those who are absent for any just reason.

[*Latin ed. p. 313*]

313. REVOCATION OF INDULGENCE. August 29, 1868. Summary of the matter. A priest, by his will, desired that his goods should serve as an endowment for a cleric, so that he might enter the sacred Orders, provided that the cleric descended from the male line of Rosali N., the father of the testator, whether from the male or female line; also, for a cleric who descended from the male collateral line of Uriani M., who was the father of the testator's mother, but always with the condition that the cleric descending from the male line of the aforementioned Rosali N. should be preferred. Furthermore, he imposed an obligation on the chosen cleric to celebrate, or to have celebrated, three Masses each week, etc. In the year 1844, Gabriel, the only surviving male from the preferred line, took possession of these goods; he was also already engaged in clerical service, and at an age when he could be promoted to the sacred Orders. But a few years later, the same Gabriel, knowing himself to be unfit for the priestly duties, and having offered a supplication in writing, requested from the Most Holy Father that he might be restored to the ability to hold a chaplaincy, even in a state of marriage, since he was 38 years of age and was obligated to assist his widowed mother, of whom he was the only son. Upon these prayers, as is customary, the Ordinary gave his opinion; and after examining the testamentary documents, consulting the patrons, and having obtained their consent, and after investigating the truth of the matters which the petitioner had expressed in his petition in order to obtain favor, the Ordinary expressed his opinion in these words: "I believe that the secularization of this chaplaincy can be granted, considering the pious intention of the petitioner, the bond of the closest kinship, the legitimate possession, and, no less importantly, his advanced age of 38 years, in which he is deemed unfit for the necessary studies, in order to be promoted to the Sacred Orders." Therefore, after considering all these things, a decree was issued on February 1, 1858, by which the Most Holy Father benignly entrusted the aforementioned petitioner to the management of the aforementioned Ordinary, provided that the facts stated are true.

[*Latin ed. p. 314*]

314. REVOCATION OF INDULGENCE. The ecclesiastical habit may be freely dispensed with, and the same person may be freely empowered, according to his own judgment and conscience, to retain the aforementioned chaplaincy, even in a married state, provided that another person is appointed to fulfill the obligations of the foundation, and that he is obligated

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to explain to the Ordinary at the time the details of this arrangement. This may be done freely, and he shall be empowered to do so. This decree was issued by the Bishop's executive office and was immediately ordered for execution. While Gabriel was peacefully in possession, in the year 1863, a cleric named M., descended from the female line of the Rosati family, petitioned the Curia for admission to the aforementioned chaplaincy, for the reason that there was no other cleric descended from those called by the testator who could be preferred over him. Since the Bishop did not consider the prayers to be justified, the aforementioned cleric turned to the Most Holy Father, asking Him to declare that the granted indulgence had ceased, since a cleric called by the testator had appeared. After being warned by various parties, the matter was presented to the Sacred Congregation. A summary of the discussion. DEFENSE OF GABRIEL. Gabriel, through his defender, presented the following arguments: The grace of retaining the family chaplaincy and enjoying it in a lay state is not subject to any condition or time limitation; rather, it was simply and purely requested, and was simply and purely granted to the cleric as long as he lived. Furthermore, a new decree by the Prince cannot have the force of law (Z. 1 ff. concerning Constitutions), and it is not permissible to restrict the Prince's grace, which was granted unconditionally and for the duration of the cleric's life, to narrower limits, and to make it temporary. Moreover, it is fitting that the Prince's benefices should be permanent, and that the fullest interpretation should be given to them (cap. 22 concerning Privileges), and also that the Sacred Rota, in the case of *Ferentina Beneficio*, on December 11, 1815, before Serlupi, considered the following: "Indeed, a firm and stable right is created for the possessor of benefices regarding the enjoyment of fruits, as long as he lives, whether through legitimate collation or Apostolic dispensation, and it certainly cannot be considered that the Supreme Pontiff has granted permission to retain the benefices in a secular state and married status, so that..."

[*Latin ed. p. 315*]

REVOCATION OF INDULGENCE. 315 "It is not permissible for anyone who has obtained [an indulgence] to afterwards invalidate the concession granted to another, or to render the grace bestowed upon another null and void. For the benefits of the Prince must remain enduring."

Since these things are so, the Defender of the Faith contends that there is no place for the revocation of an indulgence, unless it is clearly demonstrated that a rescript [granting the indulgence] was obtained through deceit or fraud. On the contrary, in the present matter, any suspicion of deceit or fraud is entirely absent. After these and other considerations, since the Defender of the Cleric, the orator, has presented nothing to the contrary, the proposed question is to be resolved: "Whether and in what manner assent should be given to the requests of the orator in the case [at hand]."

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RESOLUTION. – The Sacred Congregation, on the 29th of August, 1868, judged that the following should be answered: "No."

FROM WHICH YOU MAY GATHER:

I. That a gracious rescript from the Prince, which has been obtained without deceit or fraud, possesses the force of a special law.

II. That there is no place for the cessation of a rescript, nor for its revocation, even if a circumstance should subsequently arise from which, perhaps, the grace was not originally intended; for the benefits granted by the Prince must be considered to be enduring and without limitation.

III. Finally, that the goods of a clerical chapel, which, at the very least, should be possessed by a cleric by the will of the testator, cannot be possessed in the state of marriage without a special apostolic dispensation.

[*Latin ed. p. 316*]

316. CONFRATERNITIES. August 29, 1868. Summary: John, honorary canon of the cathedral church of N., obtained a confraternity, which entails the office of serving in the choir within that same church. Before receiving canonical institution, he signed a certain resolution of the Chapter with these words: "without prejudice to the rights that may pertain to me." The chapter's resolution admitted Angel in a simple and exclusive capacity and condition as a member of the confraternity, according to the meaning of the founding law, with the assignment of a seat in the choir and other honors and duties, and the privileges and obligations that would belong to him as a member of the confraternity. Having obtained canonical institution, John considered it a disgrace to relinquish his canonical status; since, however, few canons served in that same church, with the advice of the Bishop, he presented petitions to the Most Reverend [Bishop], asking that he would deign to grant him permission to fulfill the duties of the confraternity in a canonical position, and with canonical status. When, however, the customary petitions were presented to the Bishop, so that he might hear those who were interested, both the other members of the confraternity and the Chapter, partly supported by John's prayers, and partly opposed. For although John was considered acceptable to the Chapter and worthy of consideration, the members of the confraternity, due to their small number, did not allow John, like the other members of the confraternity, to fulfill the duties of the confraternity; and they feared that if he fulfilled them as a canon, he would be subject to deception. John, however, endeavored to overcome the objections: since the office of the confraternity members was to sing the conventual Mass in turn, he maintained that he could fulfill that office by substituting a member of the confraternity for himself; and since the principal duty of the confraternity members was in choral singing, which was also common to the canons, he could fulfill that office in the

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same way, if he were in a canonical position; and if at that time he were obliged to perform another canonical duty, since another canon would then be relieved of that duty, there would always be someone present in the singing who would represent him.

[*Latin ed. p. 317*]

CHAPLAINCIES. 317. Moreover, when John, having fulfilled the obligations of the chaplaincy, considered the canonical seat and canonical habit, he further requested that he be released from paying tithes from the day of his taking possession of the chaplaincy until the day on which he hoped to obtain the grace. Indeed, while persevering in such service and considering that the obligations of the chaplaincy appeared compatible with the canonical dignity, both the chaplains and the canons, especially the Bishop, were fully supported by the prayers of the petitioner.

OBSERVATIONS FROM THE OFFICE. It has been considered that honorary canonries are not incompatible with any resident benefice, since such canons are often said to have a name without substance, and a nomenclature that is empty and void, a right so tenuous and slight that it is considered as nothing, and the canonry as air, as is written in the cases of Fidginaten, March 14, 1648; Terracinen, January 19, 1788; Montis Politia, February 4, 1804; also Scarfantonio, lib. 1, t. 14, p. 1: therefore, it is permissible for honorary canons to retain the name of canon together with any other benefice; but it is not equally permissible to neglect canonical duties to the detriment of the obligations which, by reason of some benefice, they are bound to fulfill: which is confirmed by many authorities, since all who possess any benefice are bound to perform their offices personally and not through others.

DECREE. The Sacred Congregation of the Council, after considering the prayers presented at the meetings held on August 29, 1868, decided to respond: "Considering the particular circumstances, and with regard to tithes not yet distributed, we grant, with the approval of the Most Holy Father..."

FROM WHICH WE GATHER:

1. Honorary canons who hold a choral benefice in the same church cannot fulfill the offices of the benefice in a canonical capacity, although almost all the offices are common to canons and beneficiaries.

2. Therefore, if they perform the offices of the benefice accidentally, not as beneficiaries, but as canons, they are subject to tithes (1), unless they enjoy a special apostolic dispensation for this purpose.

(1) Compare the Decree of the Sacred Council in Lycien, which I quoted on page 50, concerning the Vicario Capitulari, who, wearing a vicariate

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habit, participates in the processions of the Chapter.

[*Latin ed. p. 318*]

318 OF JUBILATION. On February 1, 1868. Eugenius obtained a canonry in the collegiate church of N. on October 11, 1817. This canonry entailed certain duties, which, according to the original institution, consisted only of serving the choir on feast days, throughout the entire season of Lent, and during Advent, as well as participating in all the sacred functions of the Chapter; indeed, he was exempt from these duties, and from the law of residence prescribed by said institution, if the canon was absent due to studies. The same Eugenius, having relinquished this canonry, obtained another in the same collegiate church on February 11, 1849, by virtue of which he was obligated to serve the choir on all feast days, even those suppressed, as well as during the seasons of Lent, Advent, and the Octave of the Most Holy Body of Christ. In the year 1860, he presented petitions for a grant of jubilation. It was determined that forty years had elapsed since he had taken possession of his first canonry; but it was also established that he had held the same canonry until the year 1822, during which time he had been absent from his place of residence due to his studies, and from the year 1823 until the year 1837 he had resided in the town of P., although he had often been present with the choir. A decree was issued on February 1, 1861: "Let him appeal after having compensated for the time of absence due to his studies, as well as for all the penalties to which he should have been subjected during his stay in the town of P." Summary of the petitions. Eugenius, believing that he had fulfilled his duties according to the aforementioned decree, in the waning year of 1866, again presented petitions for the same grace. When questioned about the matter, the Ordinary replied: "Ten years and eight months of continuous service to the choir are lacking; but if his presence with the choir during the time he was in the town of P. is considered true, then only four years of absence for the purpose of his studies remain. But already ten years have elapsed, of which forty years have passed since he took possession of his canonry. The canons state that Eugenius has continuously and laudably served the choir from the year 1838 until the present, and therefore they assert that he has compensated for any penalties." However, I cannot affirm anything at this time, since neither the records of penalties nor other testimonies are available.

[*Latin ed. p. 319*]

JOYFUL OCCASION. 319. It is necessary to ascertain whether and what service Eugenius rendered during the time he resided elsewhere. Only Dominicus N., already a Canon of that collegiate church, testifies that Eugenius was always present in the choir, "when he lived in the town of P." Furthermore, the Chapter itself testified in its writings to Eugenius's diligence in serving the choir. DECREE. – The Sacred Congregation of the Council,

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having considered these matters, decided on February 1, 1868, to respond: "For the granting of the joyful occasion, with the usual stipulations, and in accordance with the following understanding. The opinion of the Sacred Congregation was that the Bishop should prescribe a suitable term for the Chapter to draw up its statutes in accordance with the law, and to elect Notaries. FROM WHICH YOU MAY GATHER: I. Since the grant of the joyful occasion is nothing other than a reward for forty years of choral service, it should not be granted unless it is established that the service has been rendered diligently and continuously. II. Indeed, the causes of absences, even if entirely legitimate, do not, of themselves, suffice for the granting of this favor, if the time spent in choral service has not been. III. Therefore, after the forty years have elapsed from the day of taking possession, room should be made for the compensation of any shortcomings that may have occurred previously, so that the Chapter may be able to celebrate the joyful occasion. IV. Each Chapter must be held to draw up its statutes in accordance with the law, which are then to be approved by the Bishop. V. Those who are devoted to the choir, and who are subject to undue absences, must elect Notaries, or those who will record each absence in a designated book.

[*Latin ed. p. 320*]

320 FROM THE HOLY CONGREGATION OF THE SACRED ROMAN AND UNIVERSAL INQUISITION, CONCERNING THE SACRAMENTAL CONFESSION REQUIRED FROM HERETICS WHO RETURN TO THE BOSOM OF THE CATHOLIC CHURCH UNDER THE CONDITION OF REBAPTISM. Suppliées prayers, Most Blessed Father, "Among the decrees of the first Provincial Synod of Westmonasteriensis, under C. XVII, 8, where the matter is of the abjuration of adult Protestants, and of the baptism conferred upon them under a condition, it is added, 'Also, a sacramental confession is always to be required in such a case.'" In the notes which Father Ballerini added to the Roman edition of the Moral Theology of P. Gury, it is stated that this confession is more in conformity with the Instruction issued by the Most Holy Congregation concerning the manner of reconciling heretics, from which Instruction it is deduced that a complete confession of sins is appropriate. In the text of P. Gury, it is held that it should be encouraged in practice." However, when this Author, both in Theology and in cases of Conscience, cites the opinion of other Authors who teach that, due to the existence of a doubt about the first baptism received by newly converted individuals during infancy (so that, if none was received, the true reception of baptism occurs through that which is conferred on the occasion of the abjuration under a condition), the obligation of completely confessing sins before this conditional baptism is doubtful, some confessors in Anglia, following those authors, have considered the obligation of a complete confession to be doubtful; and, because of the reluctance of the

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converted to make it, and because of the danger of an imperfect, or even sacrilegious, confession, they have considered it entirely advisable that the converted should only expose certain sins to the confessor, so that they may obtain the benefit of sacramental absolution, if perhaps it is needed. "On the other hand, there is a constant practice of the majority of confessors in the Kingdom, who, both before and after the approval of the Provincial Council, not only encourage, but also require, a complete confession; there is a difficulty in the understanding of the converted."

[*Latin ed. p. 321*]

CONCERNING SACRAMENTAL CONFESSION. 321 In order to secure the obedience of faith itself, unless through humility of spirit and submission, which the Lord Christ has deigned to restore through the Sacrament of Penance; there is also the impossibility of knowing, unless through the complete manifestation of sins, whether a newly converted person is properly disposed for Baptism, and whether he wishes, for example, to make restitution of reputation or property (if he is bound to do so), to avoid the occasion of future sin, to nullify a marriage not validly contracted, even if it cannot be remedied by a dispensation from the Holy See (as is the case in the frequently occurring instances of marriages contracted after a civil divorce); moreover, there is the necessity of considering his salvation through justification in the Sacrament of Penance, from which no one, once baptized in infancy, can be exempt; with particular attention to the diligence of the younger members of the Anglican clergy in faithfully observing the rite of baptizing, and therefore with a greater number of them, concerning whose value of infant baptism there is no room for doubt. "Now, since it is certain that after many years, the obligation of complete confession will entirely lose its force, if theologians can follow, as a safe opinion, the teachings of authors and prelates, the Archbishop of Westmonasteriensis and the Bishops of Anglia earnestly request that Your Holiness, through Your benevolence towards the missions in Anglia, would deign to declare, concerning this very serious matter, the mind of the Church: "Whether, according to the decree of the Provincial Synod approved by the Holy See, sacramental confession should be required of the newly converted in Anglia, and whether it should be complete?" DECREE. On Thursday, in the fourth week, on December 17, 1868. "In the general congregation of the Holy Roman and Universal Inquisition, held in the Convent of Santa Maria sopra Minerva, before the Eminent and Reverend Cardinals, as general inquisitors against heresy, with the aforementioned question presented, and after the votes of the Reverend Consultors, the same Eminent and Reverend Fathers considered that both sides of the question should be answered: Affirmatively; and that a decree should be issued, promulgated on Thursday, December 17, of the year one thousand eight hundred and

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seventy-five. Acts, volume IV, page XLII, 21.

[*Latin ed. p. 322*]

322 CONCERNING SACRAMENTAL CONFESSION. On the same day and on a weekday. "On that day, the Most Holy Lord, Pope Pius X, by divine providence, having granted an audience to the Reverend Fathers, Assessors of the Holy Office, deigned to approve and confirm the Resolution of the aforementioned Fathers, and ordered that it be sent to the Reverend Archbishop of Westminster. ANGELUS ARGENTI, Notary of the Holy Roman Church and of the United States."

ANOTHER DECREE, on a weekday, on June 17, 1715. The following question was posed: "Whether full faith ought to be given to Charles Wipperman of Rostok, in the Duchy of Muxlenburgh, who is a preacher and a Reader of Lutheran theology of the Quietist persuasion, a superintendent and primary doctor of the Lutheran Quietist sect, who has been reconciled to the Holy Catholic Faith in the Holy Office at Parma, and concerning certain errors detected in his Baptism; whether he ought to be believed concerning those things which he recounts, and to what extent, both for his own salvation, and also for the salvation of others of that sect or region, especially if they are ignorant."

It is asked, "Whether the aforementioned Wipperman ought to be rebaptized, and if so, absolutely or under a condition; and if so, whether he is bound to confess all the sins of his past life; and if so, whether confession should precede, or be postponed until Baptism is conferred under a condition."

The Most Holy Father, having heard the opinions of the aforementioned Fathers, said: "Charles Ferdinand ought to be rebaptized under a condition, and after receiving Baptism, he ought to confess the sins of his past life, and be absolved from them under a condition."

This present copy agrees with its original. Thus it is. ANGELUS ARGENTI, Notary of the Holy Roman Church and of the United States.

[*Latin ed. p. 323*]

OF THE SACRAMENTAL CONFESSION. 323 BESIDES OTHER THINGS, THE FOLLOWING MAY BE NOTED: I. When a certain act has been performed, one must maintain that the act is valid, unless it is established that it is null; especially if the act is a solemn one, which, moreover, cannot be repeated or annulled according to divine law. II. Therefore, all obligations which are connected with such an act, of which it is not established to be null, remain in force (1). (1) This can be illustrated by an example taken from the Sacrament of Matrimony. It often happens in matrimonial cases that there is doubt about the validity of the marriage, so that it cannot be judged to be null, nor can it be judged to be valid: this suspension of judgment occurs not only because of the lack of complete

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proof of nullity in the external forum, but also in the internal forum. In such cases, the Holy Congregations usually respond that there is no proof of the nullity of the marriage. These responses compel the spouses to persevere in the marriage contracted, and they are certainly considered to be free from no matrimonial obligation. Furthermore, if one were to reason as follows: since there is a probable invalidity of the marriage, there is a probable freedom from the matrimonial obligations; for such obligations cannot follow unless the marriage has been lawfully entered into; everyone can see what absurd consequences would follow. It cannot be denied that there is a difference between the obligations of confessing sins committed after Baptism and the obligations that result from marriage: for the latter derive immediately and directly from the matrimonial contract; while the former derive from another extrinsic law of Baptism, namely, because, according to divine institution, after Baptism, there is no other Sacrament available to the sinner by which he may be reconciled with God, except the Sacrament of Penance, of which the matter is sins: and therefore, matrimonial obligations are connected with marriage as an effect with its cause; the obligation of confessing is connected with Baptism as a condition with a condition. But this kind of connection does not seem to be such that it undermines the comparison. For if the obligation of confessing sins in this matter depends solely on the validity of Baptism; since, for the validity of Baptism, one must certainly maintain that it is valid, as long as it is not established to be null, so too, one must certainly maintain the obligation of confessing sins committed after the same Baptism. But perhaps you will say: "Suppose that the first Baptism, whose validity is doubted, is null, and the second is valid, then an obligation would be imposed that could be very serious; while, on the contrary, the same sins would not be capable of being the matter of the Sacrament." Although this may happen, it is not sufficient to remove the obligation, as long as one must maintain the validity of Baptism. The same could almost be said of marriage: suppose that the marriage, whose validity is doubted, is null, then an obligation would be imposed that would be very serious for the spouses; while, on the contrary, they could not, nor should they, live as spouses. Perhaps you will say: "If these sins are not remitted by the second Baptism, because of the validity of the first, they will be remitted either by a perfect contrition or indirectly by absolution with satisfaction." But this presupposes,

[*Latin ed. p. 324*]

824 CONCERNING THE SACRAMENTAL CONFESSION. III. Since, after Baptism, there remains no other Sacrament in the Church by which sinners can be reconciled to God, those who, having received heresy in Baptism, and concerning whose nullity there is no proof, return to the bosom of the Catholic Church, cannot be absolved from this obligation, nor

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ought they to be. IV. It makes no difference whether, after abjuring heresy, they are rebaptized under a condition; for, since this is done in a matter so grave, and for the sake of caution, it cannot be adduced as an argument to weaken the obligations which are certainly connected with a certain act. V. Finally, it must be understood that, when dealing with Sacraments, the safer course must be followed. We must maintain the validity of the second Baptism, which is usually conferred solely for the sake of caution, when dealing with a matter so grave, in which we are always bound to follow the safer course. These points, in this question, besides those already noted in the preceding passages, seem worthy of mention, and could also be further illustrated by similar statements concerning Holy Orders, Religious Profession, etc. Indeed, it is true that the general principle, according to which we must maintain the validity of an act as long as its nullity is not proven, admits of exceptions; especially when dealing with a non-solemn act, which does not produce any effect other than a grave obligation, as happens, for example, in the case of a betrothal. For, while we are bound to remove obligations, the opposite principle is considered to hold in the case of betrothals: namely, that betrothals must be considered null, as long as their validity is not proven. It makes no difference whether the doubt about their validity arises from some circumstance of the act, or from some legal reason. Therefore, the Sacred Roman Rota has consistently held, on certain legal grounds, that betrothals contracted under a condition are null ab initio, if the Pope grants a dispensation; and it is not obscurely deduced from several Resolutions which I cited in Volume I, pages 75, 81, 121, that the same opinion has been followed by the Sacred Congregation, although these passages may be unfairly twisted to give them a different and empty meaning.

[*Latin ed. p. 325*]

325 FROM THE SACRED CONGREGATION FOR INDULGENCES. OF THE SOCIETY OF JESUS, CONCERNING THE INDULGENCES GRANTED TO THE FAITHFUL WHO VISIT THE CHURCHES OF THE REGULAR CANONS. July 20, 1868. DECREE.—"It was presented to the Sacred Congregation that, among the churches in which the Fathers of the Society of Jesus exercise the sacred ministry, some, especially after the political upheavals of the preceding and present centuries, formerly belonged to the Society itself and have been restored to it, while others never properly belonged to the Society of Jesus, but their care has been entrusted to the Society, so that it may perform the ministries of its order therein. Furthermore, the question was raised: whether the faithful can obtain the indulgences which have been granted by the Holy Apostolic See to those who visit the churches of the Society of Jesus on the occasion of certain feasts, for example, the feasts of St. Ignatius, St. Aloysius, etc." Regarding the first part of the question, no difficulty was found; for if

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churches have been improperly taken away, in the case of restitution, they pertain to the Society both in law and in fact. If, however, a church has been canonically withdrawn from the Society, and then canonically restored, there is no doubt that it has returned to its former state." But when, regarding the second part of the question, an explanation was requested to make the matter clearer, the following words were used: "It has arisen as a doubt whether these indulgences can be earned by the faithful not only in those churches which truly belong to the Society, but also in those other churches which are given only for the use of the Society. To this category belong, for example, those whose property truly belongs to the respective Bishops, but which, as to their stable and total use, are entrusted to the Society and are commonly called the churches of the Jesuits." (1) (1) The Italian words "italica" are translated into Latin as follows: "It is doubtful whether the faithful can earn these indulgences not only in those churches which..."

[*Latin ed. p. 326*]

326 OF THE SOCIETY OF JESUS. "On several occasions, this Holy Congregation had issued decrees which could, in some way, be related to the matter under consideration. And indeed, on January 11, 1762, it declared that all and each public chapels of the Religious Order of St. Francis of the Observance, called *Reformatorum*, existing in Germany, Poland, Hungary, etc., should enjoy, as long as the aforementioned Religious reside therein, all and each of the indulgences and privileges generally granted to other churches of the same Order, provided that the faithful flock to these chapels to hear Mass and to receive the Sacraments of the Church." And previously, on March 27, 1732, the same Holy Congregation, having considered the petition of the General Procurator of the Religious Order of the Minor Friars of St. Francis, called *Capuccinorum*, had decreed that churches, chapels, and oratories in the residences and hospices of the aforementioned Order should enjoy the indulgences generally granted to all churches of that Order, provided, however, that the churches and oratories are public and fixed, and to which the faithful come to hear Mass and to receive the Sacraments of the Church." In these cases, however, either the churches and chapels in question belonged properly to those Orders, or the question concerned only the nature of the chapels and churches. "But the situation was different when it came to secular churches, in which Religious administered the divine offices or Sacraments; in such cases, it was not declared that these churches enjoyed the aforementioned indulgences, but rather a special Indult of Communion of Indulgences was granted. Thus, among other things, an Indult was granted by Apostolic Letters dated June 25, 1765, so that the faithful visiting any of the secular churches administered by the Religious Order of the Minor Friars, called *Capuccinorum*, in the provinces beyond the mountains, might obtain the same indulgences that they would

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obtain if they visited any of the churches of the Order." "Therefore, it is necessary to distinguish between churches which, at least in terms of use, can be said to belong properly to a particular Order, and churches in which Religious only administer the divine offices and Sacraments, and which in no way can be said to belong properly to that Order, such as the churches of barracks, military stations, and others of the like kind; these are truly those of the society, but also others which have been given to the society for use. To this class belong, for example, those of which the property truly belongs to the Bishops, but which, with regard to their use, have been stably and completely entrusted to the society, and are commonly called *Iesuitarum* churches."

[*Latin ed. p. 327*]

SOCIETY OF JESUS. 327 In which some Religious serve in spiritual matters, some enjoy indulgences, but not second ones, unless a special apostolic indulgence has been obtained. "Considering these matters, it seemed appropriate to inquire of the Most Reverend Father General of the Society of Jesus whether anything should be added to the case, and he indeed added the response of his predecessor, Father Vincent Caraffa, given on May 6, 1647, which is as follows: "This question having been frequently raised, it has finally been judged: Temples simply granted to our use, so that, as far as use is concerned, they may be considered as our own, enjoy the privileges and indulgences of the temples of the Society, as long as our ministers perform their services therein as if in their own." Therefore, the entire question was divided into four subsequent doubts, which were proposed to the Holy Congregation to be resolved: I. Whether the faithful can obtain the indulgences granted by the Holy See by visiting churches of the Society of Jesus, even those which formerly belonged to the Society itself, and which have been restored to it. II. Whether, with regard to other churches, which have never properly belonged to the Society itself, but whose care has been legitimately entrusted to the Society, so that it may perform its own services therein, the response given by Father Vincent Caraffa on May 6, 1647, is to be approved. And to the extent that it is affirmative: III. What conditions must be met for the granting of the use, so that the churches entrusted with use may, as far as that use is concerned, be considered as belonging to the Society itself. And to the extent that it is negative: IV. How should the second doubt be answered? Therefore, the Eminent Fathers, in the general assemblies held at the Vatican buildings on July 20, 1868, having heard the votes of the Consultors and having carefully considered the matters, ordered that the following be written: To I. Affirmative. To II. Affirmative, provided that the Fathers of the Society of Jesus reside in the churches in question, and perform their proper services therein. To III. The granting of the use must be legitimate, and the use must

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be constant and complete, and provided that such churches are public.

[*Latin ed. p. 328*]

328 OF THE SOCIETY OF JESUS. Regarding IV. What was provided in the second [section]. "Finally, concerning all of these matters, a report was presented to His Most Holy Father, Pope Pius IX, by the undersigned Cardinal Prefect, and on the 18th of August of the same year, His Holiness graciously approved and confirmed the Resolution of the Sacred Congregation." "Given in Rome, from the Secretariat of the Holy Congregation for Indulgences, on the day and in the year as mentioned above." A. Cardinal BIZZARRI, Prefect. A. Colombo, Secretary. FROM WHICH [the following] ARE GATHERED. I. Indulgences which are attached to churches, with regard to existing Religious Orders, are those which the said Religious Orders must follow, being those for whose benefit they were granted. II. Therefore, if Religious are expelled from a certain community, the aforementioned churches lose said Indulgences; but upon their return, said Indulgences revive by the same fact. III. It is not necessary to have a legal title of ownership in order for a Religious to grant indulgences to his community; but it is sufficient to have full and lasting legitimate possession, whereby the churches are considered by the Christian people to belong to the Religious, by their own merit (1). (1) More can be recalled which are similar to this Decree, which we have presented in Volume I, page 239, and in Volume III, page 456 and 663, line f.

[*Latin ed. p. 329*]

329 FROM THE HOLY CONGREGATION FOR RITUALS. CONCERNING THE PROCESS TO BE CONDUCTED AND THE FIRST OPINION TO BE GIVEN BY THE ORDINARY IN CASES OF SERVANTS OF GOD, WHEN IT IS A MATTER OF AN EXCEPTIONAL CASE, ACCORDING TO THE DECREES OF URBAN VIII. OF THE SOLEMN YEAR. Dated December 5, 1868. DECREE. "In the General Decrees published by His Holiness Urban VIII concerning the regulation of the service of God to servants, it is absolutely prescribed that, whether the cause proceeds through the way of cult or through the way of an exceptional case, a particular process must precede, together with the subsequent pronouncement of the Ordinary, or of the judge delegated by the Apostolic See, either concerning the lack of cult or concerning the exceptional case. The Holy Roman Church has long conformed to these Decrees, as is evident from the Acts of the same Congregation. Moreover, as testified by His Holiness Benedict XIV in his work on the Canonization of Saints, Book II, Chapter 23, Number 10, it has been established according to the aforementioned Decrees that, through the particular process, not only should the beginning or foundation of the exceptional case be proven, but also the continuous practice of cult of the same, up to the judgment rendered in this matter, either by the Ordinary

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or by a judge delegated by the Apostolic See. However, with the expressed or tacit consent of the Holy See, that judicial and legitimate investigation began to be interrupted, and the declaration of the exceptional case was reached through extrajudicial proofs. But since the Most Reverend Fathers Prefects for the Preservation of Rituals have observed that the preparation of a particular process greatly contributes to a more thorough examination of the causes, after mature deliberation, and after hearing the Promotor of the Faith, in the present meetings held at the Vatican, they have ordered that the tenor of the General Decrees and the ancient practice of the Holy Congregation be observed in the future. Therefore, it is decreed that, in the future, no exceptional case shall be approved unless it is preceded by a particular process, both concerning the beginning or foundation of the exceptional case, and concerning the continuation of the cult, up to the judgment rendered by the Ordinary, or by a judge delegated by the Apostolic See."

[*Latin ed. p. 330*]

330 CONCERNING THE PROCESS. A decree must be issued, in which it is declared whether the case in question falls within the exceptions provided for by the aforementioned Decrees of His Holiness, Pope Urban VIII. If it should please the Most Holy Fathers. On December 5, 1868. "Having made a report to His Most Holy Self, Our Lord Pope Pius IX, the Holiness of his person approved the Decree of the Sacred Congregation, and ordered it to be published after being printed, on the 10th day of the same month and year." C. Episc. Portuensis et S. Rufinae, Cardinal PATRIZI, S.R.C., Prefect. D. Bartolini, S.R.C., Secretary. FROM THE SACRED CONGREGATION OF THE INDEX. DECREE. – On the second day of the week, December 14, 1868. The Sacred Congregation of the Most Eminent and Reverend Cardinals of the Holy Roman Church, appointed by the Most Holy Pope Pius IX and the Holy Apostolic See to oversee the Index of Books of Defective Doctrine, and their condemnation, proscription, expurgation, and permission throughout the Christian Republic, having met in the Vatican Apostolic Palace, condemned and condemns, proscribes and proscribes, or orders that works already condemned and proscribed be referred to the Index of Prohibited Books, the following works: The condemnation of Pope Honorius: in Latin, *Damnatio Honorii Papae*; by B.P. Le Page Renouf. London, at Longmans, Green and Co. 1868. Christendom's Divisions, being a philosophical sketch of the Divisions of the Christian family in East and West: in Latin, *Christianismi divisiones: nempe specimen philosophicum divisionum Christianae familiae in Oriente atque Occidente*; by Edmund S.F. Foulkes. London, Vol. 2; 1865 and 1867.

[*Latin ed. p. 331*]

DECREE of the Sacred Congregation of the Index. 831. *Lezioni di Let-

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teratura italiana dettate nell'Università di Napoli da Luigi Settembrini; Vol. sec. Napoli, Ghio Printing Establishment, 1868.* No one, of whatever rank or condition, may dare to read or possess the aforementioned work, wherever he may be, nor may the Inquisitors, under pain of indictment, allow such works to be read in places of corruption. This work, in whatever language, must be surrendered to the Ordinary, under penalty of damnation, and it must be included in the Index of heretical books. This was brought to the attention of His Most Holy Father, Pope Pius IX, by me, the undersigned, S.I.C., and I attest to its truth. His Holiness approved the decree on this date in Rome, December 18, 1868, and ordered it to be promulgated, etc. ANTONINUS, Cardinal de LUCA, Prefect of the Place. [Seal] FR. ANGELUS VINCENTIUS MODENA, Ordinary of the Sacred Congregation of the Index. On December 19, 1868, the aforementioned decree was affixed and published at Santa Maria sopra Minerva, at the Basilica of the Prince of the Apostles, at the Palace of the Holy Office, at the Innocentian Curia, and in three other customary places in the city, by me, Aloysius Serafini, Apostolic Cursist, and Philip Ossani, Magister Cursist.

[*Latin ed. p. 332*]

332 FROM THE CONSISTORY ACTS. CONSISTORY PROPOSITIONS. On December 21, 1868. The Most Holy Pope held a secret Consistory on December 21st in the buildings of the Vatican, in which he proposed the following: The Metropolitan Church of Fogaras and Alba Iulia, of the Greek-Ruthenian rite in Transylvania, to which he transferred the Reverend Father Dom John Vanesa, Bishop of Armenopolis, or Szamos-Vivariensis. THE METROPOLITAN CHURCH OF MECHOACAN, in Mexico, within the jurisdiction of North America, which became vacant through the death of the Most Reverend Clement Munguia, and which is now under the Roman Curia: to this church he transferred the Reverend Father Ignatius Arciga, who was previously Bishop of Lengon in the lands of the infidels. Mechoacan is the largest city in the region of Mechoacan, in North America, and is built on a plain, containing thirty thousand or more inhabitants. Its Metropolitan Church is dedicated to the Most Holy Savior, and it boasts an excellent structure, and four bishops are subject to it. The Metropolitan Chapter consists of five dignities (of which the first, after the pontifical, is the Deanery), eight canons, with both positions to be filled, three full canons, as many half canons, and other priests and clerics who dedicate themselves to the work of God. The care of souls is exercised by a parish priest in the Metropolitan Church, where there is a baptismal font, etc. Several other parish churches in Mechoacan are equipped with baptismal fonts, as are some monasteries for men and women, several lay sodalities, a hospital, and a seminary; however, a house of piety is desired. The territory of the Archdiocese is very extensive, and includes many parishes and places. THE CATHEDRAL CHURCH OF LA SERENA, in the jurisdiction

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of Chile in South America, which became vacant through the death of the Most Reverend Justus Donoso, the last Bishop of that see; to this church he appointed the Reverend Joseph Emmanuel Orrego, a priest of the Archdiocese of Saint James of Chile, who diligently performed ecclesiastical duties, especially the preaching of the Word of God and the reception of confessions from both sexes. He had previously served twice as a parish priest in a city in Chile, where he was chosen as a Professor of Dogmatic and Moral Theology, as well as Canon Law and Church History, and he resigned from his position as Rector of the Seminary and Dean of the theological faculty; he was then appointed a Canon of the Collegiate Church of La Merced in the same Metropolitan Church, and subsequently held the dignity of Treasurer.

[*Latin ed. p. 333*]

FROM THE ACTS OF THE Council, since the seat of Serena is vacant, the duties of the Capitular Vicar have been performed until now. The city of Serena, the capital of the province of Coquimbo in the Chilean region of southern America, contains one thousand four hundred houses, and is inhabited by nearly twelve thousand citizens who profess the Catholic religion. The Cathedral Church, a new and solid structure, boasts the title of the Most Blessed Virgin of Help, and serves as a suffragan to the Archbishop of St. James of Chile. Its Chapter includes two dignities (of which the first is the Deanery after the pontifical office), two Canons without theological or penitential duties, four chaplains of the choir, and as many other priests who serve with the divine clergy. The care of souls is not exercised in the Cathedral. Adjacent to the Cathedral is the Episcopal palace, a good and recently constructed building. Furthermore, in the city of Serena, one finds a parish church with a baptismal font, three monasteries for men and two for women, a college for each sex, four lay sodalities, a hospital, and a seminary; however, a house of piety is lacking. The territory of the diocese extends over more than two hundred leagues in latitude, thirty in longitude, and encompasses eighteen cities and places.

THE CATHEDRAL CHURCH OF VERULUM is vacant due to the death of the Most Reverend Fortunatus Maurizi, the last Bishop of that see. The Reverend Father John Baptist Maneschi, a priest from Foligno, was appointed to this church. He received his doctorate in sacred theology and in both laws at the Roman University, and has admirably performed ecclesiastical duties. He was appointed Rector in the public national gymnasium, and having renounced his position as General Vicar of the late Bishop of Foligno, he was co-opted among the Canons of that church, and among the Most Holy History [referring to a historical collection]. Meanwhile, for the Senigallia diocese, he has served repeatedly as General Vicar, and has also performed the duties of Capitular Vicar since that office is vacant. Verulum, one of the heroic cities in the province of

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Campania under the jurisdiction of the Holy See, is located on a mountain near the Cosa River, and with a circumference of almost three Roman miles, contains one thousand five hundred houses, and is inhabited by approximately five thousand souls who are obedient to the Holy Apostolic See in both spiritual and temporal matters. The Cathedral Church bears the title of St. Andrew the Apostle, and is immediately subject to the Holy Apostolic See. Its Chapter includes one dignity of Archdeacon, fifteen Canons with both duties (namely, theological and penitential), four benefices, an altar server, two singing chaplains, and other priests and clerics who dedicate themselves to the divine service. The care of souls in the Cathedral is exercised by a Canon elected by his colleagues, approved by the Bishop, and assisted by another priest. There is a baptismal font in the Cathedral, as well as several notable relics of saints; in particular, the body of St. Mary Salome, the city's patron saint, is reverently preserved in a chapel of the sanctuary. There are six other parish churches in Verulum, each with a baptismal font, and two of these are collegiate. There is also a monastery for men and one for women, several lay sodalities, a few granaries, and a seminary. The territory of the diocese extends approximately thirty Roman miles, and encompasses several cities and places.

THE ARCHIEPISCOPAL CHURCH OF CORINTH, located in lands of infidels, is vacant due to the death of the Most Reverend John Fraschina a Bosco, the last Archbishop of that see. The Reverend Father Joseph Angelini, a priest and Patrician from Ascu-

[*Latin ed. p. 334*]

334 FROM THE CONSISTORY ACTS. Ianus, who, having received the doctorate in philosophy, theology, and both laws at Rome, was appointed Dean of the noble Ecclesiastical Academy, and was added to the ranks of the Domestic Prelates of the Most Holy Lord, discharged the duties of Assessor to the Tribunal of the Sacred Congregation and the Government, Visitor of the Apostolic Visitation Congregation, and another concerning the discipline of Regular Canons, by the Secretaries, and furthermore, served as a Consultor for the Congregations of Bishops and Regular Canons, for the ecclesiastical immunities, and for the Holy Roman Inquisition; he was appointed Civil Lieutenant of the Vicariate of the City, and until recently, was a Canon in the Patriarchal Basilica of the Vatican, among the Examiners of the clergy of Rome and the Vatican, or of Bishops; finally, he was recently appointed Vice-Governor of the Venerable City. Corinth, once a celebrated and prosperous city of Achaia, still languishes under the yoke of the infidels. The Most Holy Father, according to custom, granted a dispensation so that the same [person] would not be promoted to the Corinthian Church, as long as that church was held by the infidels.

The Episcopal Church of Calydon, under the Archbishop of Naupactus,

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in territories held by infidels, was filled by the translation of Reverend Father Anthony Grech Delicata Cassia Testaferrata to the Cathedral See of Gozo. To that church, Reverend Father Luke Petrović, a priest of the dioceses of Segna and Modruš, was promoted, and he was also appointed Auxiliary to the Most Reverend and Most Reverend Lord George, Cardinal Haulik, Archbishop of Agram, so that he might assist him in the performance of pontifical and other pastoral duties. The same [person], promoted and having received the doctorate in theology, diligently discharged ecclesiastical duties; he was Professor of Canon Law and ecclesiastical history at the Episcopal Lyceum of Segna, a Canon in the same Cathedral, chosen as Defender of Matrimony and religious profession, and as Referent of that Episcopal Consistory, and was appointed Prefect of the Gymnasium; having served for several years as a Chaplain in the court chapel of Vienna, he remained Director of the Higher Institute for Priests; he was recently appointed Canon in the Metropolitan Church of Agram, and simultaneously Rector of the Seminary for Clergy and Professor of Theology, and was co-opted as a secret coadjutor in the chambers of the Most Holy Lord.

Calydon, a city formerly the capital of Aetolia, located on the Evenus River, still languishes under the yoke of the infidels. The Most Holy Father, among other things, and according to custom, granted a dispensation so that the same [person] would not be promoted to the Calydon Church, as long as it was held by the infidels.

The Episcopal Church of Antipatris, under the Archbishop of Caesarea, in territories held by infidels, was filled by the translation of Reverend Father Francis Gandolfi to the Cathedral Sees of Corneto and Centumcellae, which are perpetually and canonically united. To that church, Reverend Father Gaspare Willi, a priest of the Curia, a member of the Order of Saint Benedict, was promoted, and he was also appointed Auxiliary to Reverend Father Nicholas Francis Florentini, Bishop of the Curia, so that he might assist him in the performance of pontifical and other pastoral duties. The same [person], promoted, diligently discharged ecclesiastical duties; he was Prefect of Studies at the Einsild Abbey, and for fifteen years, Rector of that extensive parish; he was recently appointed a public councilor of the Suit district council and Inspector of rural schools. Antipatris, a suburb of Palestine, located between Ramah and Caesarea, still languishes under the yoke of the infidels. The Most Holy Father, among other things, and according to custom, granted a dispensation so that the same [person] would not be promoted to the Antipatris Church, as long as it was held by the infidels.

[*Latin ed. p. 335*]

FROM THE ACTS OF THE CONSISTORY. 335 After these things, the Most Holy Father announced the following appointments made by the Holy Congregation for the Propagation of the Faith, from the last Con-

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sistory until the present: the Archiepiscopal Church of Anazarbus, in the territories of the infidels, to which Charles Eyre was appointed, a Prelate of Honor of His Holiness, and a Canon of the Cathedral Chapter in England; and the Apostolic Visitor deputed to Glasgow in Scotland. The Episcopal Church of Nicopolis, in the territories of the infidels, to which the Reverend John Mac-Donald was appointed, and he was also appointed Coadjutor to the Reverend Father James Francis Kyle, Bishop of Germanicia, as Apostolic Vicar in the northern district of Scotland. Then, the Most Holy Father spoke of the most serious matters concerning Spain, deploring the many evils endured by the Church, and in particular, the danger in which the unity of faith is found, a unity which that Catholic Nation has always boasted.

ERRATA CORRIGE: In the Resolution of the case of Jurispatronatus, reported in volume 40, under the title of Immission and expulsion, on page 204, it should be read: "the sentence is to be declared invalid, and not confirmed." Assuming the Resolution which we erroneously wrote, it followed that the Holy Congregation would have considered the case not in a possessory, but in a petitionary manner; and thus, by examining the grounds of the foundation, it would have found the Chapel to be at least clerical; but on the contrary, the Holy Congregation, by the Resolution which it gave, considered the case not in a petitionary, but only in a possessory manner. Afterwards, those who were demanding the expulsion of the Chaplain from the Chapel, raised the question concerning the clerical nature of the Chapel; but there was no longer any place for the question, since, while the dispute was pending, the Chaplain whom they wished to expel, passed away from this life.

[*Latin ed. p. 336*]

336 APPENDIX VIII. ENCYCLICAL LETTER. FROM GREGORY XVI. MOST BLESSED REMEMBRANCE, TO ALL PATRIARCHS, PRIMATES, ARCHBISHOPS, AND BISHOPS OF THE CATHOLIC WORLD, CONCERNING THE DISTURBANCE OF THE CHURCH AND CIVIL SOCIETY. It is known that the most celebrated Encyclical Letter of the Most Holy Pope, beginning with the words "Quanta cura," together with the Syllabus of condemned propositions, has aroused and still arouses much discussion; all of which we have presented in Volume III, page 160. Since a letter from Gregory XVI, most blessed remembrance, which is entirely similar to this letter and the Syllabus, and which is mentioned in the aforementioned constitution "Quanta cura," is not widely known, we present it to our readers, from which it is evident with what firmness the doctrine of the Holy See is transmitted. The aforementioned letter is of the following tenor:

GREGORY, POPE XVI.

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VENERABLE ONES, Greetings and Apostolic Benediction.

"We are astonished that, having been entrusted with the care of the entire Church, we have not yet written to you, as custom and our benevolence towards you have demanded. Indeed, it was our greatest desire to extend our heart towards you without delay and to address you with the voice by which We were commanded to confirm our brothers in the person of Blessed Peter (1)."

"But you know well that, in the very beginning of Our pontificate, we were suddenly plunged into a height of the sea, in which, unless the hand of God had shown its power, We would have been overwhelmed by the most terrible conspiracy of the wicked. The mind, saddened by the review of so many injustices, was reluctant to stir up such sorrow; rather, We bless the Father of all consolation, who has rescued us from danger in the present time, having scattered the treacherous, and who has granted us respite from fear in the midst of the most turbulent storm. We immediately intended to communicate our plans to you for restoring..."

(1) Luke 22:32.

[*Latin ed. p. 337*]

XVIII. The repentances of Israel; but a great burden of cares, with which we have been overwhelmed in restoring the public order, at that time presented an obstacle to Our will. "Meanwhile, a new cause for silence arose from the insolence of factions, who again attempted to display signs of their perfidy. We, indeed, perceived that such obstinacy in men, whose unrestrained fury, despite Our long-standing indulgence and the benefits We have bestowed upon them, could not be restrained by mildness, but rather required to be restrained by force (1); and therefore, as you can now readily understand, Our daily insistence became more urgent. "But, having now observed that, for the very same reasons, they were already attempting to seize the Pontificate in the Lateran Basilica, according to established custom and the traditions of Our predecessors, we hasten to you, Venerable Brothers, and on this very day, with the greatest joy, we send you this letter, a testament to Our will, on the day when we celebrate the solemnities of the glorious Assumption of the Most Holy Virgin, so that She, whom we have always considered our protector and advocate in the midst of great calamities, may also be propitious to us, and may, by Her heavenly influence, inspire in us thoughts that will be most salutary for the Christian flock. "Indeed, we come to you with a heavy heart and profound sadness, knowing that you, through your devotion to religion, are experiencing the greatest hardships in these most bitter times. For truly, the hour has come when the powers of darkness are sifting the children of the election (2). Truly, the land has withered and decayed, bereft of its inhabitants, because they have transgressed the laws, changed the judgment, and broken the everlasting covenant (3). "We speak, Venerable Brothers, of what you your-

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selves see with your own eyes, of what we lament with common tears. Wickedness rejoices, knowledge is shameless, and licentiousness is rampant. Holiness is despised; and the majesty of divine worship, which possesses great power and great necessity, is rejected, defiled, and treated as a jest by wicked men: hence, sound doctrine is perverted, and errors of every kind are boldly spread. Neither the laws, nor the rights, nor the institutions, nor any sacred discipline are safe from the audacity of those who speak. This Our Most Holy See of Rome, which the blessed Peter established as the foundation of the Church, is grievously afflicted; and the bonds of unity are increasingly weakened and broken day by day. The divine authority of the Church is attacked, and its rights are violated, and it is subjected to the sway of worldly reason, and, with the greatest injustice, it is brought into a shameful servitude and subjected to the hatred of the people.

(1) 1 Corinthians 4:21.

(2) Luke 22:53.

(3) Isaiah 24:5.

[*Latin ed. p. 338*]

338 APPENDIX TUI. The obedience due to Bishops is deplorably infringed, and their rights are trampled upon. This is not enough; we must strive with all our might to remedy these evils: we turn to the aid of your faith, and we implore your concern for the salvation of the Catholic flock, Venerable Brothers, whose virtue and religion, and whose singular prudence and steadfastness, give us courage, and in such great adversity, they sustain us with consoling words. For it is our duty to raise up the voice of religion, to thwart the designs by which a single wolf seeks to destroy the vineyard, to prevent the sheep from being slaughtered by force or guile. Our strength is increased when we see the public order being destroyed, the foundations of the principalities crumbling, and all legitimate authority failing to flourish, even under the slightest suspicion of corruption. May it be far from us that so many evils, so many dangers, should press upon us, so that, when the time comes to fulfill our pastoral duties, we should be so overwhelmed by these things that, struck by fear, we abandon the flock, or, with slothful neglect, allow it to languish in various sects, flagitious and blasphemous, as if in a common sewer where all filth is congealed. Let us therefore, united in our cause, and against common enemies, for the salvation of the entire people, let all our vigilance be one, and let our efforts be united. "These things, Venerable Brothers, and many other things, perhaps even more serious, which I could mention at length if it were appropriate and if you knew what is happening, demand your attention and your teaching, and we urge you, with a heavy heart and with great urgency, to constantly keep in mind the entire Church, which is being disturbed by every new innovation (1); and following the warning of the holy Pontiff Agatho (2), we must be vigilant against those things which, once defined

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by legitimate authority, should not be changed, nor altered in any way.

(1) S. Caelest. PP. epist. 24 ad Epis. Galliarum.

(2) S. Agatho PP. epist. ad Imp. apud Labb. tom. 11. pag. 235 ed. Mansi.

[*Latin ed. p. 339*]

339 APPENDIX VIII: I maintain that these things, both in words and in meaning, must be adhered to without any alteration, and must be diligently guarded. Thus, the firm foundation of the unity of the Church consists in the faithful safeguarding and nurturing of the deposit of the holy faith, which the Chair of Peter most faithfully protects and guides. For the flock is contained within this Chair of Blessed Peter, and it is necessary that those who are subject to the Bishops, from whom the rights of the venerable communion of all Churches derive, should be there, a wall, a refuge, and a port (4); and they must never forget that they possess an inexhaustible treasure of good things (1). Therefore, let them take care to curb any audacity that would seek to undermine the rights of God, or to infringe upon the canons of teaching and preaching, or to disrupt the communion of Churches with their own scopi, upon whose faith the people are founded, and from whom, for the sake of souls, they are required to draw strength (5). Finally, let them instill a certain and firm conviction of sincere devotion, and let them proclaim to all those who, falsely trusting in the holy Cyprian (2), attempt to disturb the order established in the Church, that those who forsake the Chair of Peter, upon which the Church is founded, are utterly alien to the study of reverence for it.

"Therefore, it is necessary for you to diligently strive and constantly be vigilant, so that the laws of the Church are received, so that the deposit entrusted by God may be safeguarded in such a way, and so that the administration of the sacred rites and the morals of men are not corrupted by the conspiracy of the wicked, but are maintained according to the norm and the reason of the Church's ministry, lest they be disapproved of by the whim of opinion, or lest, through certain principles of natural law, they be declared imperfect, and the entire government and administration of the Church, which belongs to the Roman Pontiff, to whom full power is given to feed, govern, and guide, be subjected to civil authority."

"For, as the Fathers of Florence declared in the words of the universal Council of Trent (3), the Church was taught by Christ Jesus and His Apostles. And the Holy Spirit, suggesting to each individual Bishop, makes it absurd (1) S. Innoc. PP. ep. 11. apud Coust.—(2) S. Cypr. de Unit. Eccl.—(3) Conc. Flor, sess. 25. apud Lab. 1.18 col. 527. ed. Ven.—(4) S. Hier, ep ad Nepot. al. 24. —(5) Ex Can. Ap. 38 ap. Lab. 1.1 pag. 38 ed. Mansi.— (6) C. Trid. sess. 13 de Euch, in proem.

[*Latin ed. p. 340*]

340 APPENDIX VIII. It is plainly evident, and in some places, out of a

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certain wickedness, some have dared to introduce, as if necessary, a restoration and a perversion of certain matters, undermining that most holy discipline, to the detriment of its integrity and growth. But these are the most vile of counsels, and through their long efforts, you, as if deceived, are led to believe that these demands can, through words alone, distinguish between what is defective or obscure, or to other similar inconveniences; and indeed, these innovators strive to cast down the very foundations of human institutions, so that what is detestable, as Cyprian says, may come to pass, namely, that what is divine may become human within the Church (1). Moreover, those who devise such schemes should be aware that the Christian marriage, which Saint Paul called a great blessing in Christ and in the Church (3), according to the testimony of Saint Leo, urges us to take care that nothing contrary to its sanctity, or that it be wrongly understood regarding its indissolubility, be felt or attempted to be introduced. It is indeed a grave matter, and as our Predecessor, Pope Pius VIII, recommended to you in his blessed memory, the decrees of the Ninth Council should be carefully considered, as they measure the necessities of the times for restoring the Church, and that laxity in teaching should be avoided, and that, after careful consideration, marriage, once rightly celebrated, cannot be dissolved, and that the bond of marriage, which originates from God, should not be broken, except by death. Remembering these things, and with the laws of the Church concerning these matters before our eyes, let all, accurately and diligently, fulfill what depends on them, so that the strength of this most sacred union may not be weakened by licentious pronouncements, but rather, let them be wary lest, through public and repeated pronouncements (1) S. Cyp. ep. 52, ed. Baluz. (2) S. Gelasius PP. in canones. (3) Ad Hebr. 13, 4.

[*Latin ed. p. 341*]

APPENDIX VIII. By the decrees of 341 councils, it is related that she, steadfast in her purpose, when reason permitted, diligently sought to know the outcome, and that those unhappy unions which were destined to be broken, constantly proclaimed: "He who is joined to Christ is one flesh" (4). But if anyone were flattered, that they might be joined merely by lust, and if that person were also regenerated in water, then, most appropriately, Augustine (5) would say: "That thought itself has the form of a vine that has been pruned." Let us now consider another most abundant cause of evils, by which we are afflicted in the present time: namely, indifferentism, from which that absurd source flows, that wicked opinion, that grievous delusion, that erroneous sentiment, or that perversion, which has so greatly increased, claiming that with any profession of faith, one can attain eternal salvation, provided that morals conform to a certain standard of right and honest conduct. But it is easily understood by everyone that this freedom of opinion, which spreads widely like a stain in the sacred and civil affairs en-

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trusted to your care, is utterly devoid of any benefit for religion. But which is worse, baptism or the death of the soul, which is feared by those who believe that all ports are open to the path of beatitude? Let them remember the testimony of the Savior himself, that those who are not with Christ are against Him (2), and that they are, as it were, casting themselves into a pit of perdition (7), from which John saw smoke ascending, by which he understood that those who go forth from it are like locusts coming from the abyss to devastate the earth. For from this comes the corruption of souls, from this the ruin of young people, from this the degradation of the people and of sacred things. Let them hear Jerome, who, when the Church was divided into three parts by schism, said:

(1) To the Ephesians 4:5.

(2) Luke 11:23.

(3) Symbol of St. Athanasius.

(4) St. Jerome, Epistle 57.

(5) St. Augustine, in Psalms, against the Donatists.

(6) St. Augustine, Epistle 166.

(7) Revelation 9:3.

[*Latin ed. p. 342*]

342 APPENDIX VIII. And the contempt for the most holy laws, from this one word, is a plague to the republic more grievous than any other, for it is known, even from the earliest times, that states which flourished in wealth, power, and glory, have fallen because of this one evil: unrestrained freedom of opinion, license in public speaking, and the desire for innovation. "To this pertains that most detestable and never sufficiently reprehensible and abominable freedom of the literary art, by which any writings whatsoever are published to the populace, which some dare to extol and promote with great boldness. We tremble, Venerable Brothers, seeing with what monstrous doctrines, or rather, with what portents of error we are overwhelmed, which are spread far and wide everywhere through a great multitude of books, pamphlets, and writings, which, though small in size, are exceedingly wicked, from which a curse has gone forth, and we cry out against the face of the earth. But alas! There are those who are so consumed by impudence that they assert vehemently that this flood of errors, erupting from this source, can be sufficiently compensated for by some book which is published in this time of such great wickedness, to defend religion and the truth. It is indeed a wickedness and is condemned by all right, to favor works that certainly contain evil and are greater, because there is hope that some good may come from them. Would any sane person say that poisons should be freely scattered, publicly sold, and even consumed, simply because there might be something in them that could save those who use them from destruction? "But a very different discipline existed in

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the Church in eradicating the plague of wicked books, even from the time of the Apostles, as we read that they publicly burned a great quantity of books (1). It is enough to read the laws given at the Council of Lateran V. concerning this matter, and the Constitution which was subsequently issued by our predecessor, Pope Leo X. (2), so that what is invented for the increase of faith and for the promotion of the good arts may not be turned to the contrary, and may not cause detriment to the salvation of the Christian faithful. Indeed, this was of the greatest concern to the Fathers of the Council of Trent, who applied a remedy to this evil by issuing the most salutary Decree concerning the Index of books containing impure doctrine (3). "We must fight vigorously," says our predecessor, Pope Clement XIII. in his Encyclical on the proscription of harmful books (4), "we must fight vigorously, as much as the matter itself demands, and with all our strength, to destroy these deadly books: for error will never be eliminated unless the wicked elements are consumed in the flames." From this constant concern of all ages, (1) Acts of the Apostles 19. (2) Acts of the Council of Lateran V., session 10, where the Constitution of Leo X. is mentioned. The earlier Constitution of Alexander VI. should be read, among many others, in which there are many things pertaining to the matter. (3) Council of Trent, sessions 18 and 25. (4) Litterae Clementis XIII., Christianae, 25 November 1766.

[*Latin ed. p. 343*]

APPENDIX VIII. This Apostolic See has always been vigilant in condemning and suppressing harmful books, and it is abundantly clear how much the false and rash teachings of those who reject, not only the censorship of books, which they deem excessively burdensome, but who also proceed to such wickedness as to claim that it is contrary to the principles of just law, and who dare to deny the Church the right to determine and enforce such matters, are injurious to the Apostolic See and are the source of great evils in the Christian people. "Now, since we have observed that certain doctrines are being disseminated in writings circulated among the people, doctrines which undermine the duties of faith and obedience owed to rulers, and which sow the seeds of treason everywhere, it is most important to take care that the people, deceived by these things, are not led away from the right path. Let all understand that power does not come from God unless it is ordained by God; and that which is ordained by God is just. Therefore, he who resists power resists the ordinance of God, and those who resist incur judgment." (1) "Therefore, both divine and human law cry out against those who, through the most vile machinations of treason and sedition, seek to turn away from the faith in rulers, and to deprive them of their authority." And for this very reason, the ancient Christians, even under severe persecutions, were, it is well known, highly esteemed by the Emperors, and for the safety of the empire, and they demonstrated this

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not only by faithfully fulfilling, with accuracy and promptness, the duties entrusted to them, which were not contrary to religion, but also by their constancy, and even by the blood they shed in battle. "Christian soldiers," says Saint Augustine (2), "served the unbelieving Emperor; but when the cause of Christ arose, they acknowledged no one but Him who was in heaven. They distinguished between the eternal Lord and the temporal lord, and yet, for the sake of the eternal Lord, they were subject to the temporal lord." This is what the holy martyr Mauritius, the first among the soldiers of the Theban legion, had before his eyes, when, as Saint Eucherius recounts, he replied to the Emperor (3): "We are soldiers of your Emperor, but we are also servants, which we freely confess to God... And now, this last necessity of life does not compel us to rebellion: behold, we hold weapons and do not resist, because we prefer to die rather than to kill." The faith of the ancient Christians in rulers is all the more evident when it is considered that, as Tertullian (4) says, at that time the Christians did not lack numbers and forces, if they had wished to take action against their enemies. "We are," he says, "external to you, and we have filled all things: cities, islands, villages, municipalities, assemblies, camps, tribes, legions, palaces, the senate."

(1) Romans 13:2.

(2) St. Augustine, *In Psalm 124*, n. 7.

(3) St. Eucherius, *Acta SS. Mart. de SS. Maurit. et Soc*, apud Ruinart.

(4) Tertullian, *Apologeticus*, chapter 34.

[*Latin ed. p. 344*]

344 APPENDIX VIII. forum... Those who are not suited for war, and who do not achieve it, most readily and audaciously attack those things which are pleasing to them. "We would have been, even with fewer troops, more than willing to be slaughtered by those who so readily seek our destruction." Nor could we foresee, either for religion or for the principality, whether it would be permissible to kill, or whether to kill... If so many people were to be separated from the world, and if the mutual bond of empire and the concord of the Church were to be torn away from you, it would certainly be shameful for any dominion to be so torn away from you. The priesthood, indeed, despises that concord which is torn away from the citizens, and even that very destruction would punish them. Undoubtedly, you would have sought out your solitude... and those whom you would have commanded would have been more enemies than citizens remaining with you; but now there are fewer enemies among the multitude of Christians.

"But to the other most bitter causes, by which we are concerned and in which we experience a certain common pain, have been added certain associations and static groups, with which, as if in a cohort, even those who

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follow the most holy religion, under the guise of false religion and piety, truly condemn the insolence and wickedness of those who everywhere promote sedition and innovation, and who, with a desire for all kinds of freedoms, are inflamed by unrestrained lust for liberty, and who are in every way undermining the rights of princes and weakening and destroying all authority. They seek to overthrow, under the guise of liberty, the people into servitude. To this, indeed, with a most grievous and troubled spirit, and with the most wicked conspiracies, they have planned their schemes. The Waldensians, the Beguards, Wycliffe, and others of this kind, children of Belial, who have been a disgrace to the human race, have deservedly been so often condemned by this Apostolic See. These men, indeed, do nothing but strive with all their might to stand against God, and they intend to use all their strength, not so much to defend the truth, as to be able to congratulate themselves, as if they were free from all.

"Therefore, brothers, gird yourselves with the armor of faith, and strive strenuously in the battles of the Lord. To you, above all, this Apostolic See has repeatedly cast forth its anathema against all heresy. Exercise the sword of the Spirit, which is the word of God, and have among you no one who hungers for justice. Be attached to the Lord's vineyard, as cultivators."

[*Latin ed. p. 345*]

APPENDIX VIII. Act, therefore, with one purpose, laboring together in this matter, O pastors and guardians of the people, so that, as from a root, all bitterness may be uprooted, and that true peace may flourish in the land entrusted to you, bringing forth abundance and tranquility, if you diligently cultivate the soil, lest the seed of vices take root there, and that religion may be safe and the harvest of virtues joyful. Entrust to them, with paternal affection, the care of those who, above all, are bound to God, who has inscribed upon them: "King of kings and Lord of lords."

But that all these things may prosper and happen happily, let us raise our eyes and minds to the most holy Virgin Mary, who alone has vanquished all heresies, and who is our greatest confidence, to God, the Author of wisdom, and the Reformer of the wise (1), and let it not be said that, without our actions, the desired outcome can be obtained, as the Lord teaches through the Scriptures: "Men may know God through the Word" (2).

From the Apostle of the Apostles, Peter, let us learn the mysteries of faith, which surpass all understanding, and let us humbly implore the co-Apostle Paul, that you may all stand firm as a wall, remembering that God is the foundation, and that, through study, counsel, and reliance on His grace, no other foundation should be laid than that which has been laid. With this firm hope, we trust that Jesus Christ, the Author and Finisher of our faith, will comfort us all in the tribulations that have come upon us.

May our most beloved sons, the Princes in Christ, favor this undertaking with their help and authority, which has been conferred upon them, and

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may they grant us the Apostolic blessing, which we, in turn, most earnestly desire to bestow upon you, Venerable Brothers, and upon the sheep entrusted to your care. Let them diligently observe, for their own sake and for the sake of the Church, what is being done for the salvation of the Church; let them persuade themselves that the cause of the faith should be more dear to them than the kingdom, and let them understand that it is their duty to strive for it with all their might, as Saint Leo said: "If, from the hand of the Lord, the crown of faith is added to them, let them also add to it the crown of martyrdom."

Given in Rome, at the Basilica of Saint Mary Major, on the eighteenth day of the month of September, in the solemnity of the Assumption of the same Blessed Virgin, in the year of the Incarnation of our Lord, one thousand eight hundred and thirty-seven, in the second year of Our Pontificate.

(1) Wisdom 7:15.

(2) St. Irenaeus, *Lib. U*, chapter 10.

(3) From St. Bernard, sermon *de Nat. B.M.V.*, 37.

[*Latin ed. p. 346*]

346 APPENDIX I X. CONSTITUTION OF BENEDICT XIV, ISSUED ON THE THIRD OF THE IDES OF NOVEMBER, 1741, AND FREQUENTLY CITED, IN WHICH THE ORDER AND FORM TO BE OBSERVED IN JUDGMENTS IN MATRIMONIAL CAUSES, REGARDING THE VALIDITY OR NULLITY OF MARRIAGES, ARE PRESCRIBED.

BENEDICT, BISHOP, SERVANT OF THE SERVANTS OF GOD.

"By the mercy of God, whose judgments are incomprehensible and whose ways are inscrutable, we, established in the highest offices of the Church, so that we may diligently watch over the entire flock of the Lord, recognize that it is our duty, pertaining to the pastoral office entrusted to us, to eradicate, by applying the power entrusted to us from above, abuses arising from the cunning of the infernal enemy and the malice of men, by which the salvation of souls is destroyed and injury is done to the Sacraments of the Church; and to restrain human rashness, and to preserve the authority of the venerable Divine Law."

§ 1. "Since the bond of marriage, instituted by God, which, as it is a duty of nature for the purpose of begetting offspring and preserving other goods of marriage, is perpetual and indissoluble; and as it is a Sacrament of the Catholic Church, it cannot be dissolved by human presumption, the Savior Himself pronounced, saying: 'What therefore God hath joined together, let not man put asunder'; it has come to the ears of Our Apostleship that, in some ecclesiastical courts, judges, through excessive carelessness, infringe this, and rashly and inconsiderately pronounce judgments declaring the nullity of such marriages, thereby granting the spouses the power to enter

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into other unions. These imprudent judges ought indeed to be admonished by the condition of human nature and, in a certain way, by their own voice, lest they break the sacred bond of marriage with such audacity, which the first parent of the human race forewarned, saying: 'This is now bone of my bones, and flesh of my flesh: she shall be called woman, because she was taken out of man.' And it was added: 'Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.'"

§ 2. "Knowledge of such wickedness has been brought to our attention from various parts, and examples have also been indicated of certain men who, after the first, second, and third..."

[*Latin ed. p. 347*]

§. 347. It has happened that a wife, because of the excessive harshness of the judge, could not obtain a divorce, and the cause of the mother's complaint was the undue haste in declaring the marriage null. Such marriages, declared null by the Apostolic See, are nevertheless contracted by those who, either through ignorance or malice, are eager to marry surviving widows; and likewise, women who, after the first, second, and third marriages, are hastily or even without any examination, joined in marriage with a fourth husband, and these marriages are also declared null and invalid; partly because they joined living husbands, causing scandal and detestation among all, and because the sacred bonds of marriage are so often disregarded and the dissolution of marriage is so readily sought. We, understanding this, lamented deeply in our hearts, and we have not neglected any part of our Apostolic solicitude in the Lord to remedy this. Indeed, in the first year of Our Pontificate, We sent full letters to the Bishops, in which We expressed Our deep sorrow for this abuse, which, although seemingly different, was in reality a wickedness tolerated in the Church, and We endeavored to stir up their minds and to kindle pastoral zeal to abolish it; and We have done the same with Bishops in other regions, where We learned that the abuse of hasty marriages had also crept in.

§. 3. It is true that this often happens partly because of the fault of those judges, to whom, either through lack of assistance or through other necessities, the initial cause is referred by the ordinary judge. This leads to the situation that then both spouses, or one of them, apply to each other for a marriage, or that the legitimate cause cannot be known before the tribunal to which it is referred in the appeal stage, or that, even if a judge is present, a just decision regarding the cause before him is changed, either because the party who was present changes his mind, or because he lacks the funds to pursue the lawsuit, or because of the fault of the judge.

§. 4. As for the judges, it pertains to them, outside the Roman Curia,

[*Latin ed. p. 348*]

348 APPENDIX IX. The care of ensuring that the proceedings are con-

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ducted for the benefit of the parties involved pertains to the matter, just as it does in marital cases, so that marital causes are not handled in such a way that those involved do not have a complete and wise understanding of justice. We must be diligent in providing this, so that no Bishop, to whom, for a legitimate reason, three Patriarchs, Primates, Archbishops, and Bishops have been assigned, and to whom a delegation is directed, can be so assigned that it can be conveniently handled by one of those who, according to the order and manner prescribed by us in the aforementioned encyclicals, is a suitable judge appointed by the Bishop with the consent of his Chapter.

"§ 5. Regarding the order and sequence of judgments in marital causes, in order to ensure their proper and appropriate termination, we, with full knowledge and mature deliberation, and by the fullness of our Apostolic authority, hereby establish and add, for all time, the following: that, although the decree of the Council of Trent states that marital causes are to be removed from the jurisdiction of Deans, Archdeacons, and others of lower rank, and reserved only for the examination and jurisdiction of Bishops, provided that the proceedings concerning Archdeacons, Deans, and others established in the same diocese, or holding some privilege or prescription, at least in the knowledge of marital causes, are conducted with a person endowed with the same qualities; therefore, we do not prevent the assignment of commissions, which are intended for the defense of marital causes, to those who, when the opportunity arises, offer another equally suitable person for the defense of marital causes to the Apostolic See for the second instance; nevertheless, we command and order those to whom such commissions or delegations are assigned, that when the opportunity arises, they may offer such a person.

"§ 6. Furthermore, concerning the office of the Defender of the Marriage, we add the following:

[*Latin ed. p. 349*]

APPEND i ix. 349 as above, the elected official will be responsible for determining, in the judgment, whether the validity is in question, should it happen that one or both of the spouses are present in the judgment regarding marital causes concerning validity, or nullity before the legitimate judge, whenever doubt arises, and whether they are to be summoned and present in any judicial proceeding, to examine witnesses, by voice and in writing, to defend the validity of the marriage, and to bring forth all those things which he will deem necessary to support the marriage.

§. 7. And finally, this official, as a person considered a necessary party to the judgment, and to its integrity, shall always be present in the judgment, whether one of the spouses is present who argues for the nullity of the marriage, or both, one arguing for validity and the other for nullity, and shall diligently fulfill all his duties. Therefore, if the judge is to judge the

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validity of the marriage, and no one appeals, he himself shall also abstain from the appeal: and this shall also be observed, if the judge of the second instance has ruled in favor of the validity of the marriage, after the judge of the first instance has argued for its nullity; but if a judgment is rendered in favor of the validity of the marriage, the Defender shall take an oath, faithfully to perform his duty, and whenever it happens that in the judgment one of the spouses is present, insisting on some matter concerning the marriage, whether it be for its defense or against it, and he again leaves the judgment, he shall, by virtue of his office, take the oath: but if he has not been legitimately summoned or notified, whatever has been done in the judgment shall be declared null and void, and we declare and decree that, as if he had been summoned and notified, and as if he had not been a party to whom it was necessary to be summoned and notified, according to the laws and prescriptions for the legitimate validity of the judgment, those things shall be observed which are absolutely necessary against those who contravene the interdict of the Church.

§. 8. Therefore, since it is necessary that, before the Order is established, the parties should know the controversy that is proposed, in which the marriage is concerned, we decree that, especially, they should separate from each other, so that, whatever sentence may be issued concerning the nullity of the marriage, within ten days, they may be notified.

[*Latin ed. p. 350*]

350 APPENDIX I X. Let it not be called an appeal, or let the appeal be considered invalid, if the party who abandoned the first judgment in the matter subsequently presents an appeal; but rather, let the cause be decided further.

§ 11. Furthermore, instructed by this judgment, if the second judgment is in conformity with the first, that is, if in the second judgment, as in the first, no impediment or invalidity is found, then the marriage of this kind shall be considered entirely valid by the judgment, and the party, or the Defender, for his conscience, may again decide, determine, and renew the appeal, or the appeal interposed, and shall not consider it in any way, but shall be within the power and discretion of the spouses to contract new marriages, provided that neither of them is forbidden by a legitimate cause before the judge in the first instance. However, after the second judgment, which is in conformity with the first, as stated above, the spouses may, with the act of the judge, use the Defender of the marriage, saving always and firmly that any impediment or legal obstacle, or privilege of causes of marriage, which by voice and in writing vigorously and to the best of their ability defends the validity of the marriage, shall be maintained, and if the judge in the second instance is a Metropolitan, or a Nuncio of the Apostolic See, or a neighboring Bishop, the Defender of the marriage shall be the one appointed by them, and as we have commanded above, he shall

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be able to carry out what has been established by us; if, however, the judge in the second instance is a Commissary Judge to whom the knowledge of the cause has been entrusted by the Apostolic See, and who does not have an ordinary tribunal and jurisdiction, and therefore lacks a Defender of the marriage, we wish that he use the Defender of the marriage who has been appointed by the Ordinary, in whose diocese the cause is being heard, even if the same Ordinary has not appointed him, so that the prohibition to the spouses to enter into new marriages shall remain firm.

[*Latin ed. p. 351*]

x ix. 351 Penalties, as is fitting, are to be imposed by Us, and We decree that the knowledge of these matters shall be subject, in the first instance, to the Most Holy Roman Church. In the third or fourth instance, a Cardinal in the aforementioned City [Rome], and his Vicars for the Suburbs and the district of Etrun, for spiritual matters, as We have demanded in the first and second instances; We command and order that, in every judicial proceeding, and in all and each of the things prescribed for the Defender of the Marriage in cases heard in the third instance, namely, that the judgment be carried out, the Defender of the Marriage being summoned and heard by the same Cardinal Vicar, and that all the aforementioned things be diligently observed, and also that, in other cases heard in the first instance, we exhort, in the Lord, that the Defender of the Marriage, to whom this duty is assigned freely, for the love of God, for the proximate good, and for the reverence of the Church, should, if he refuses to provide his services without any fee or salary, be appointed by the Judge of that cause, either by the Judge of the first, second, or third instance, or by the Audience of Our Palace, provided that the expenses for such matters, which can be covered by the funds collected from the penalties of their tribunals, are not seen to burden Us, and the Roman Pontiff for the time being, for just and pious causes. When the Judges are Cardinals, or of the Roman Curia, appointed Prelates, We wish and command that the Defender of the Marriage be compensated from the Council of Cardinals of Trent [Tridentini], or from the Congregation for Matters of Marriage of the Most Holy Roman Church, and if that is not possible, from the Audience of Our Palace, by the Auditor thereof, provided that the expenses for such matters are not seen to burden the Congregation in particular, by a person of greater dignity from that same Congregation.

§. 1 2. The Defender of the Marriage, to whom this duty is assigned freely, for the love of God, for the proximate good, and for the reverence of the Church, is exhorted to perform it with all due diligence. If, however, he refuses to provide his services in a particular case, either with the consent of the parties, or on appeal to the Holy See, and the cases are brought before Us, which We wish to be judged either by the Council of Cardinals of Trent [Tridentini], or by the Congregation of the Most Holy Roman Church for

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the interpretation and execution of the Council of Trent [Tridentini], or by the Audience of Our Palace, then, if the party who is arguing for the validity of the marriage has the means, the expenses shall be paid to him; otherwise, they shall be paid by the Judge of the first, second, or third instance, or by the Audience of Our Palace, as the case may be.

§. 1 3. Thus far, concerning matrimonial cases, which are heard outside the Roman Curia. As for cases heard in Rome, the Defender of the Marriage shall be appointed by the Cardinal Prefect of the same Congregation, or, if that is not possible, by the Audience of Our Palace, by the Auditor thereof, in a particular Congregation.

§. 1 1. This is the only resolution.

[*Latin ed. p. 352*]

352 APPENDIX I X. concerning the nullity of marriage, if the cause is discovered in the Congregation of Cardinals of the Council of Trent, or in a specially appointed congregation, and likewise a unanimous judgment pronounced on the same nullity in our Palace's audience chamber, is not sufficient to grant the spouses the freedom to contract new marriages, but if the cause has been introduced in the aforementioned Congregation of Cardinals of the Council of Trent, it must be re-presented in the same congregation at the request of the Defender of the Marriages; if it has been entrusted to a special congregation, at the request of the same Defender, another special congregation will also be appointed; if it has been judged in our Palace's audience chamber, the Defender may appeal, and other auditors will, according to order, determine the matter; if the cause has been entrusted to the entire Tribunal, it will be examined again by all the auditors, and we do not wish, in any case, that the bond of marriage be considered dissolved, unless two judgments or resolutions, or sentences entirely similar and conforming, have been issued, from which neither the party nor the Defender of the Marriages believes it necessary to appeal; if this is not the case, those who transgress our will by contracting a new marriage, which is not valid and not consummated, shall be subjected to the penalties established above. We are of the opinion that, for the most part, the advisory vote is sent to the Congregation of the Holy Roman Church Cardinals of the Council of Trent, or sometimes to a special congregation appointed by the Roman Pontiffs at the time, so that such requests may proceed in order and properly. We wish and command that a petition be presented to Us, or to the Roman Pontiff at the time, in which a complete and accurate account of the entire matter is contained, and all the reasons are expressed which the petitioner believes may contribute to obtaining the requested dispensation, and that the Roman Pontiff, after reading and carefully considering it, may deliberate with himself whether to reject the petition, or to entrust its examination to one of the aforementioned congregations, from which, after it has issued its advisory vote, the entire course of

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the matter will be accurately reported by the Secretary of that congregation to the Roman Pontiff at the time, who, according to his prudence, will judge whether the congregation's resolution should be approved, or rather, the entire cause should be entrusted again to another congregation, or to the Tribunal, as it may seem best to the said Pontiff.

§. 16. Finally, we wish and decree that these present letters shall always be firm and valid, etc." (followed by extensive confirmatory and derogatory clauses, etc.)

§. 15. And since prayers are often offered to the Apostolic See for a dispensation from marriage, the following general instruction from the Sacred Congregation of the Council is to be remembered, which we have included in Vol. I, page 439.

[*Latin ed. p. 353*]

353 FROM THE HOLY CONGREGATION OF THE COUNCIL. DECREE CONCERNING THE NOMINATION AND ESTABLISHMENT, dated June 13th and September 12th, 1868, and January 23rd, 1869. The matter in question was vigorously debated, arising from certain Italian provinces that had become part of the Kingdom of Sardinia in the year 1861. Summary of the facts: An Archdeacon from the noble family B. established a canonry in his cathedral in the year 1690. The fortunes of this canonry declined over the course of the centuries. However, a certain annual sum of livres, or francs, amounting to 1,200, remained, which the civil community A. paid to the Chapter. A priest, John, descended from the same noble family B., conceived the idea in the year 1848 of re-establishing this canonry; and he accomplished this, together with his cousin, Count Aloysius, in the following manner: 1st, they determined upon an endowment of an annual sum of 96 livres, which Aloysius promised to provide, obligating his successors as well, and who, together, granted John the power to mortgage certain of his properties as security for these same revenues. 2nd, the annual livres of 1,200, which were paid to the Chapter, of which I have already made mention: this revenue the Chapter readily ceded to the new canonry, considering it to belong to it. 3rd, an annual sum of 630 livres, which was established by the priest John from his own possessions. This endowment was received from the Bishop. However, these founders wished to impose the following conditions: 1st, in the case that the canonry is suppressed by force majeure or by any other cause not dependent upon the priest John B. or his successors in the canonry, or if the Chapter itself is suppressed, such assigned revenues shall be considered as unassigned; and the entire endowment shall revert to the same founders or their heirs. 2nd, [The text is incomplete here.]

[*Latin ed. p. 354*]

354. Regarding the right of patronage, the following was decided: The

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right to nominate [a priest] belongs to Count Aloysius B. and his male descendants; if these fail, it belongs to the brother of the priest John B. and his male descendants; in the event of the extinction of these lines, the right to nominate belongs to the Bishop. Regarding the passive right of patronage, it was decided that the aforementioned John should be first, and after him, his brother Vincent, who is currently serving as a parochial vicar in the parish of C... Priests belonging to either of the aforementioned lines should always be preferred. If these fail, other families may also be called passively. Thus, the canonry was established according to these laws by the authority of the Bishop in the year 1848, with the consent of the Chapter (which stipulated that the new canonry should provide an annual income of at least 800 guilders). And in it, the entire canonry belongs to John, according to the law of its foundation. In the year 1854, a certain controversy was resolved by the civil court between John, the Chapter, and the aforementioned community of C. concerning a legacy of 1,200 guilders, and it was decided that it should go to the Chapter, as had been previously decided against John. Indeed, the court judged that all the rights of the old canonry had been extinguished, and that the new erection could not revive those old rights. Later, Count B. did not pay, nor was he able to pay, the annual income of 96 guilders, as his assets were burdened with considerable debts. In the year 1866, on February 3rd, John renounced the canonry, and his renunciation was accepted by the Bishop, who on the same day offered another, more lucrative, vacant canonry to the same John. The Bishop was subsequently asked by the same John whether he should not proceed with the new nomination, given that the old canonry was, in his judgment, invalidly founded and erected. It is not clearly stated how the Bishop acted regarding such a request; however, it is known that the Bishop contacted the patron, Count Aloysius, who alone had the power to nominate, and asked him to nominate; this Count either granted the power of nomination to the Bishop himself, or he acted in such a way that the nomination was returned to the Bishop after a period of four months; and the nomination made by the Bishop was subsequently accepted. However, according to the law of the foundation, the brother of John...

[*Latin ed. p. 355*]

AND OF THE ESTABLISHMENT. For 355 years, who then was the parochial Vicar, he resigned his office before the Bishop. These events appear to have transpired in May of 1866 through private letters, as the Bishop indicates. Since John had long convinced himself that the establishment of his own Canonry was either invalid or had fallen into a state where the endowment should be returned to the founders, he made every effort to ensure that the Bishop would no longer appoint anyone; and he went so far as to file a formal protest with the records of the civil court on November 15th of the same year, notifying the Bishop, as indeed

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he was notified on that very day, November 15th. Nevertheless, the Bishop, after disregarding such a protest, formally appointed another brother of John, Paul B., to the Canonry on November 16th of the following year, who had already made a solemn profession in the Order of St. Francis, and who was living outside the cloister having obtained a dispensation for secular life. John then issued another protest on November 22nd of the same year, 1866, against the appointment that had been made. However, even after this protest was disregarded, Paul B., who had been appointed by the Bishop, received the letters of canonical institution on February 19, 1867. On March 6th of the same year, John brought the matter before the Sacred Congregation of the Council, and he informed the Bishop of this on March 30th. In his protests, John confused the old establishment of the Canonry with the new establishment that he himself had made, implying that the old Canonry could not have been revived. On April 1, 1867, the Bishop ordered Paul B. to take possession of the Canonry. Therefore, on April 11, 1867, it appears that possession of the said Canonry was given to Paul, although only ten Canons were present. However, amidst all this turmoil, which it would be tedious to detail, Paul claimed to be in full possession of the Canonry and demanded the endowment of the same Canonry from John; conversely, John refused to hand over the revenues of the Canonry that he had founded, and the matter was brought before the civil court. The civil court of first instance delivered a judgment against the plaintiff, that is, against Paul, both because, according to civil law, that Canonry did not have a legitimate existence; and because the question was pending before the Sacred Congregation of the Council, which was the only body competent to rule on the matter.

[*Latin ed. p. 356*]

356. NOMINATION. This sentence was confirmed in a second instance for almost the same reasons, namely, because the French Government, to which that Italian province was subject in the year 1861, would admit only nine canons who receive a salary from the Government; because this law was a matter of public order, and the Order and Chapter of which we are speaking were subject to a special decree in the year 1864, and therefore the other canons previously established, recognized, and admitted would not be valid before civil law; and even more so, because in the present case, there would be no question of the validity of the nomination made in the person of Paul.

SYNOPTIC DISCUSSION. DEFENSE OF JOHN REGARDING THE FIRST DOUBT. John's advocate challenged the validity of the new nomination made by the Bishop, arguing that the canonical form had been neglected, because the edicts of resignation had not been affixed, nor had the cited patrons and others who were interested in the nomination been summoned; which should have been done not only according to law

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and the Constitution of Gregory XIII, but also according to the custom of the same diocese. After these things, the Defender recalled that the Bishop had proceeded to make a formal nomination and canonical institution, even though John had inserted protests in the records; indeed, even if he had appealed to the Holy See. Furthermore, it is understood that presentations and nominations made during litigation are invalid and void. Indeed, an inhibition or protest by one who is interested can prevent the proceeding to a nomination, and if it proceeds, all subsequent acts are tainted with the flaw of invalidity: which the canons knew, and four of them had even issued a protest against the act of possession prescribed by the Bishop; indeed, the civil court itself declared that Paul could not be considered a canon, since an appeal was pending before the Holy See, to which alone jurisdiction belonged; and therefore, the effects of the canonry could not require a new canon. Furthermore, the Defender recalled certain events that had occurred previously: that is to say, he stated that in the year 1854, the erection of the canonry had been declared invalid by a civil court; and therefore, John had lost his position as canon, and had also ceased to receive the allowance of 120 livres, and also the income from the Comte's brother, amounting to 96 livres; but when John supplicated the Bishop to consider the matter, the same Bishop...

[*Latin ed. p. 357*]

AND OF THE INSTITUTION. 357, having carefully examined the will of his General Vicar, who held the opinion that the "Canonicatus" could be declared extinct; therefore, the Bishop is said to have instilled hope in John in the year 1862 that John would declare the extinction of the Canonicatus; afterwards, however, having changed his opinion, he proceeded against the same John, so that neither his protests were valid, nor his appeal to the Holy See. Hence, the Defender sought to demonstrate that the protests issued were not to be disregarded, firstly because there were reasons previously recognized by the Bishop which favored the extinction of the Canonicatus; secondly, because the Patron, who had been consulted by the Bishop for the purpose of nomination, did not have the right to nominate, since he could no longer fulfill the part of the endowment of the Canonicatus for which the Patron had previously been established; and if only the probability of the loss of this right were to be considered, the Defender argued, it should have been pointed out that the Canonicatus was vacant, and another Patron should have been called from a different line. DEFENSE OF JOHN REGARDING THE SECOND POINT. The Defender recalled those fundamental principles of law, according to which, when an appeal is interposed, the jurisdiction of the Judge from whom the appeal was taken ceases; and all that was done thereafter is invalid and rescindable; and these principles, he argued, should also apply in the case where an injunction and a protest have been interposed, and all expenses and all

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damages should be reimbursed. After these remarks, he recalled the merits of the same John, who had been commended by the Bishop on several occasions to the civil government in order to receive compensation for his merits; he argued that the new Canonicatus which John had obtained from the Bishop was providing equally meager revenues each year, and were not sufficient for the proper support of a Canon; he recalled that the erection of the new Canonicatus was considered invalid, and that the same Canonicatus was considered extinct, both because the endowment had been diminished, and because it was not recognized by the government as legitimate, in which case the maximum endowment of the same Canonicatus should be returned to the founder, John; he recalled that this concerned a founder, to whom all rights should be favorable when he is verging on poverty; and therefore, he demanded that, at the very least, the revenues of the same Canonicatus be given to John for life, with the nomination of a new Canon suspended. To these main points, the lengthy defense of John is reduced, in which the Advocate had inserted many paragraphs taken from...

[*Latin ed. p. 358*]

358 Regarding the folios presented by the Sacred Congregation, from which we have refrained from quoting (1). DEFENSE OF THE BISHOP. — The Defender of the Bishop, who assumed the role, and the Canon Paul, at the outset, asserted that the canonry existed, and that it was sacrilegious to claim its suppression in a society that is entirely independent of civil laws. He recalled that it could not be doubted that an ecclesiastical benefice canonically existed when these conditions are present: I. Canonical erection, that is, erection accomplished by the authority of the Ordinary, who has the endowment in his possession and has admitted the conditions that do not contradict the substance of the benefice:

(1) It seems to be the worst method for defending a case to write out continuously paragraphs from the folios of the Sacred Congregation and to fill entire pages with them; for in those same folios, it is customary to indicate, as a matter of course, the main arguments, which may appear to be relevant in each question, both for and against. Therefore, if you present a paragraph and wish to confirm something from it, it is necessary to show that the doctrine expressed therein is a doctrine approved and accepted by the Sacred Congregation through a subsequent resolution; which often cannot be done without some investigation, that is, by referring to the specific case and showing that the arguments expressed in the cited paragraph are those by which the Sacred Congregation was moved to judge. Or, if you derive the value of the same expressed doctrine from the allegations contained in that paragraph by authors or other resolutions; in order to be certain of that doctrine, it is necessary to examine those allegations and resolutions; for, since such folios often contain a synopsis of the arguments of the lawyers, you will often remain uncertain whether the lawyers, who

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move every stone in order to report a victory, have correctly and accurately cited the authorities or resolutions of the authors. Therefore, if there are those who refer indiscriminately and without selection to these paragraphs, and fill the pages of defenses with these paragraphs, they may be doing a service to their clients if they are not well versed in canon law; but as far as the judges are concerned, they are doing nothing more than perhaps creating annoyance. On the other hand, if they were to present clear authorities relevant to the matter in each part of the reasoning, with less writing and without causing tedium to the readers, they could greatly help the case. However, this cannot be done without meditation and labor. I said indiscriminately and without selection; for in the same folios which are customarily written by the Secretary of the Sacred Congregation or his auditor, one often finds gold of traditional doctrine, when resolutions given and alleged by the Sacred Congregation previously on the matter in question are expressed, in which case paragraphs can be cited properly and usefully with the very name of the Sacred Congregation. And no one would rightly object that this method is very old, since the paragraphs of the decisions of the Sacred Rota contain the arguments by which the Sacred Rota was moved to decide; and such arguments for deciding are given and arranged by the judge himself after he has given the decision.

[*Latin ed. p. 359*]

AND OF THE FOUNDATION. 359 2° The spiritual offices to be performed by a Cleric or Priest are attached; 3° The perpetuity of the same Benefice. However, all of these things abundantly concur in the erection of the Canonry under patronage of which we are speaking, as the Defender demonstrated from the explicit founding documents. It is, however, clearly erroneous for those to believe that the erection of this new Canonry should not be considered, because in the year 1801, after all revenues had been subtracted and taken away, it remained suppressed. For although the Apostolic See may have benignly tolerated this suppression, it did not remove the obstacles to new foundations that would arise according to the public law of the Church, which never prevents the faithful from establishing ecclesiastical Benefices. It is, in fact, established that patronage is acquired through the endowment, concerning which Vivian wrote in *Praxis Iurispatr.*, book 2, chapter 1, number 1: "He who endows a church, whether founded and built without an endowment, with the consent of the Diocesan, acquires the patronage in it, and if the church is founded, built, and consecrated, but is not endowed, if it is endowed with the aforementioned consent, the endower becomes the Patron." In number 2: "Add that he who endows a church, with the consent of the Diocesan, which has lost the entire endowment, acquires the patronage by reason of said endowment, and the first Patron, that is, he who endowed it in ancient times, will not have any patronage in such a

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church, because of said endowment; but if the church has lost part of its endowment, but not the entire endowment, then he who supplements the endowment does not acquire the patronage, because he is then considered a Benefactor, but, with the consent of the first Patron and the Diocesan, he may become the Patron of that church with the first endower." In the present case, it is the same family that founded the Canonry in ancient times, which also endowed it, and which now gives new life to the Canonry. And if something remains from the old endowment, it does not follow that the old Canonry can be considered to be renewed by the new endowment, but rather that a new patronage is established, although the old one may be considered to have been revived. To effect this new foundation, it is considered, according to canonical jurisprudence, that the amount of the endowment must exceed half of the existing endowment, as Schmalzgrueber writes in *Ius Eccl. Univ.*, chapter 2, on Patronage, numbers 59 and 60: "It must be distinguished..."

[*Latin ed. p. 360*]

360 NOMINATIONIS: "Whether such a church is entirely lacking in endowment, or whether it is endowed, but not sufficiently... If the latter occurs, and the endowment is increased, consideration must be given to the quantity and manner in which this increase is made; for, as the Glossa notes in Can. Quicumque, cause 1, question 7, if someone gives a small amount, they do not acquire the right of patronage. Similarly, if someone contributes something in a notable quantity, but not as an endowment, but as a donation, they are called a giver and benefactor, not an endower, as the Abbot states in can. Quotiam, number 10: therefore, in order that the right of patronage may be acquired through the increase of the endowment, it must be conferred expressly with the knowledge of the Ordinary, and in a sum exceeding half of the endowment, according to the opinion of the Rota, etc. It must not be tolerated that the Concordat of 1801 between the Holy See and the Gallic Government should go so far as to deprive churches of the right to acquire endowments in the future, and to provide a weapon to inflict a most grievous wound upon themselves. If civil administrators interfere in ecclesiastical affairs according to their customs, this should indeed be rejected, but not proven in law and judgment. Indeed, it is established in law that the statutes of laymen cannot extend to churches and ecclesiastical persons, or to their goods, as stated in Chapter 10 of the Constitution, where it is written: "We observe that no power is attributed to laymen over churches and ecclesiastical persons, but rather they are subject to them, not to their authority; and that if any law is enacted by them which concerns the interests and advantages of the churches, it has no validity unless it has been approved by the Church." This has indeed been affirmed, as noted by the Defender in the Bull of annexation, which begins Universi diei, December 31, 1861, in which Apostolic Letters ex-

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clude any disposition that is contrary in any way to the doctrine of the Catholic Church and its rights, especially since, as the Supreme Pontiff himself states, the most serene Emperor has affirmed that he will not only grant a suitable endowment to the same seats and clergy, but will also assert the full and free right of the Church, with which it enjoys in France, to retain, acquire, and administer its temporal goods and possessions. If some laws have been introduced in the Gallic Empire that inflict a wound on the common ecclesiastical law, then..."

[*Latin ed. p. 361*]

AND OF INSTITUTION. 361 The effects are referred only to certain cases, such as the election of a Capitular Vicar when the see is vacant, and the determined number of Canons in external regulations; however, these cannot prevent that Catholic subjects, and especially ecclesiastical men, who are endowed with a benefice for spiritual offices, according to the Council of Trent, Session 25, chapter 9. Nor can anyone reject the Tridentine sanction, which is found in chapter 11 of Session 22 on Reforms, in these words: "If any cleric or layman... should be so consumed by avarice as to attempt to convert to his own use, or through others... the goods, revenues, and rights, the fruits, emoluments, or any other advantages which ought to be applied to the needs of the ministers and the poor, by any means or pretense whatsoever... he shall be subject to an anathema, as long as... he has not fully restored the benefits; and then he shall obtain absolution from the Roman Pontiff." In the present case, however, the civil judge himself, in rendering his sentence, declared that he was acting within the limits of civil matters, as they say, and did not address the question of whether the Canons were being deprived of benefits that were ratified by civil laws; indeed, later, the civil prefect of the province decreed that part of the endowment should not be paid to John, but to the new Canon, Paul; therefore, the entire opposition was created and completed by John, and he should therefore remember the aforementioned Tridentine censure. The Advocate did not fail to recall that civil laws, which have been enacted in ecclesiastical matters, do not affect the Apostolic See, which freely and independently issues its resolutions in its seat of judgment and on the altar of justice. He cited this example, namely, that the Holy See grants dispensations from a valid and consummated marriage, even though they are not permitted by civil law in France. Therefore, it cannot be said that the canonically established Canonry was suppressed due to force majeure or any other cause independent of the priest John; for if any disturbances arose, they had no other author than John himself; and afterwards, the Chapter itself made supplications to the Holy See, so that the established Canonry would not be suppressed. After these remarks, the Defender proceeded to the second question contained in the first formula of doubt,

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namely, whether...

[*Latin ed. p. 362*]

362. The matter at hand was the granting of a Canonry to Paul. First of all, he sought to resolve the difficulty that presented itself at the outset, namely, whether a Religious who lives outside the cloister by virtue of Apostolic permission, and who is commonly called "secularized," can hold a Canonry without a special grant from the Apostolic See. For when a grant of secularization is conceded by the Holy See, it is indeed usually accompanied by a clause that such a Religious shall observe the substantial vows compatible with his condition, and that he shall be provided with a suitable provision for the sustenance of life; but from this clause, it is not considered that the Religious has thereby become eligible to hold a Canonry. To mitigate this difficulty in some way, the Defender of the Faith sought to demonstrate that the rights of blood are not extinguished by a religious profession, and that Religious men who have been called to the right of patronage can exercise this right, according to what Pitonius states in *De Controversiis*, Allegation 66, number 16, where he wrote: "The testator's intention can never be frustrated, if he has directly disposed of his property, intending that it should pass to those who are most suitable for its propagation, excluding strangers, whether they be monks or nuns, in whom the favor of blood prevails and in whom kinship is maintained as long as they live." Moreover, he alluded to the Resolution of the Sacred Congregation of the Holy Office in the case of *Civitatis Plebis*, concerning passive patronage, dated August 27, 1853: the case concerned a Religious man who, due to poor health, had left the Convent of the Brothers Capuchins with prior Apostolic permission. In this case, there were many aspects similar to the present case regarding lines of succession; the proposed doubt was: "Can the Reverend N. (formerly a professed Religious) possess the right of passive patronage, and can he exercise it with regard to the provision of the Canonry in question?" The Fathers responded affirmatively in all respects. After these remarks, the Defender of the Faith opened the way for himself to defend the granting of the Canonry, saying: "Furthermore, in the specific case before you, without any legitimate objection, the Most Reverend Fathers have offered a Canonry to one who is worthy. I confidently promise that your most august Senate, joined with prudence and wisdom, will grant a favorable judgment to the Curia and to the unfortunate priest." Then, turning to the difficulty regarding the publication of the resignation not having been made by edict, he noted that such publication...

[*Latin ed. p. 363*]

AND OF INSTITUTION. 363 There were no customary practices in that court, nor was there any precedent; furthermore, in that case, no legitimate opponent could have been present, and all were informed of the resigna-

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tion; and that resignation was made known to all, especially because John had obtained another canonry under the same roof through the generosity of the Bishop, so that even if he himself had not renounced the canonry, the canonry itself would have become vacant by law, as being incompatible, according to the decree of the Council of Trent, Session 24, chapter 17, concerning Reforms. For it was decreed there: "Whoever henceforth shall presume to receive and retain, either through union for life, or through perpetual commendation, or by any other name or title, multiple benefices or other ecclesiastical offices incompatible with each other, contrary to the form of the sacred canons, and especially the Constitution of Innocent III, which begins 'De multa,' shall be deprived of those benefices themselves, according to the provisions of that Constitution, and by the force of this canon." Since an incompatibility of benefices exists, the second benefice, by its very nature, renders the first vacant by law, so that provision can be made for it immediately; on this matter, Laurence wrote in book 3, title 8, question 6, paragraph 5: "In order that provision may freely be made for a benefice, either by collation or by election and institution, it suffices that it be vacant by law, provided that knowledge of this is had, e.g., because it is known that someone has received an incompatible benefice, without it being necessary that it also be vacant in fact, and without it being necessary that the holder of that benefice be summoned or notified, since he has already manifestly lost his right and title to the benefice." But in this case, we are not dealing with a resignation in the strict sense, but rather with a vacancy resulting from the acquisition of a new benefice; therefore, it is futile to invoke the Constitution of Gregory XIII, *Humano vix iudicio* (1).

(1) Gregory XIII, in order to provide a remedy for the abuses of those who resign, declared that, according to Apostolic and other canons, they should be completely absolved from the old rule 34 of the Chancery, and that those who are thus provided for should, within three months from the day on which the provision was made, publicly take possession of the benefice in the manner prescribed above, otherwise that provision shall be null and the benefice shall be considered vacant by fact. Furthermore, with regard to our matter, he ordered in § 7 of the Constitution concerning benefices that "those benefices which are henceforth conferred by ordinaries... shall also be vacated for reasons of commutation, and within one month from the date of the acceptance or rejection of such resignation, (and if by them it is accepted) they shall..." In accordance with this provision, Paul, the resignatory (assuming the resignation of which this Constitution speaks), was required to...

[*Latin ed. p. 364*]

364. Regarding the objection concerning the diminution of revenues, the Defender, noting that the Canonry and the Prebend should not be confused, since the Canonry endures even though the Prebend may vary due

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to accidental causes: the fault for the loss should be attributed to John, who did not sufficiently safeguard this annual payment through the inscription of a mortgage; remedies are not lacking, at least extraordinary ones, by which the endowment of the same Canonry may be increased again; all those for whom this is of concern should demand that the Canonry not be suppressed. Finally, to strengthen his argument, the Advocate cited the authority of Cardinal De Luca in *De Canonicis*, book 3, chapter 6, in which the author states: "In the church of Theatina," the Archbishop, with the consent of the Chapter, had established a new Canonry with endowments and revenues assigned and incorporated to the Chapter's table, so that the new Canonry would be equal to the participation of the older canons in the Mass; however, over time, the goods assigned for this purpose had suffered a very significant diminution, and almost complete loss, so that this new establishment remained harmful and prejudicial to the older canons because the Canon was admitted to an equal participation without compensation..." Regarding a more serious case, the same author, when consulted, responded among other things: "Concerning the objection that might be raised to prevent the Canonry from being acquired, in my opinion, it seems a desperate undertaking; publication is required. What is the law if, within three months from the day the provision was made to him, Paul did not make the prescribed publication? Could John reclaim the Canonry that he had resigned? This question was resolved by Flaminius Parisius in his work *De Resignatione Benefic.*, volume 2, book 1, chapter 44, question 7, number 20 and 87, with these words: "It is, however, doubtful whether the right would be lost by the one resigning due to the lack of publication by the one accepting the resignation. The common opinion is negative, considering the rule of the Chancery regarding publication, and the constitution of 182 of Pope Pius V... Considering the time of the Constitution of Gregory XIII, it must be said that, due to the lack of publication by the one accepting the resignation, the right is lost by the one resigning, and the Benefice is vacant, and can be freely conferred... and this seems to be the best rule, in order to prevent fraud more effectively. From this, it is inferred that, if publication is not made, the one resigning cannot reclaim the resigned Benefice, nor can he bring a lawsuit regarding it, because, according to the aforementioned Constitution, all right has passed from him (Parisius wrote this around the year 1590), and so this type of Constitution not only annuls the act, but also causes the vacation of the resigned Benefice, which occurs where the resignation is null due to this defect, and not due to another reason, as has been decided in the Rota, etc."

[*Latin ed. p. 365*]

AND OF INSTITUTION. 365 "For, where there is no established, certain, and precisely defined number of Canons by the Apostolic See, the Bishop is not prohibited from erecting new Canonries, with endowments

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and revenues sufficient for that purpose." Moreover, he stated, and with even less reason for doubt, that when the consent of the Chapter is added, and it is possible that the newly erected Canonry might cause a claim in the Chapter to dissolve that communion, and that the new Canon should not be admitted to equal participation in the chapter's Mass, but should be content with only the dowry assigned by the founder; and that it should not destroy a Canonry already validly erected in substance, on account of a change in this accidental circumstance, since it would appear to have no legal basis.

Regarding the protests issued by John and disregarded by the Bishop, the Defender replied that the Bishop had acted justly and lawfully, because the protests were based on false principles, and because they urged the vacant Canonry to be conferred; and, furthermore, the Bishop was unjustly accused of contempt, since contempt is defined as the disregard of a legitimate injunction. He argued that John's recourse to the Holy See could not suspend the Bishop's jurisdiction, because a simple recourse from a superior judge to an inferior judge, if not notified to the inferior judge, never constitutes an impediment to the proceedings; to prove this, he cited Clementine, book 2, title 6, which reads: "While a dispute is pending, nothing should be innovated; we consider the dispute to be pending after a citation has been issued by the competent judge and has reached the party cited, or has been made in such a way that it has not reached that party, provided that the aforementioned citation contains such things that it is fully possible to understand about what the parties are in dispute." Relying on this text, Lancellotus, in his work on Contempt, paragraph 2, chapter A, number 13, teaches: "Where a citation is required, the offering made to the Prince does not bring the matter to such a state that anyone should therefore be considered to incur a penalty, as is clear in Z. Libertus, on the matter of being summoned to court, where, if the Prince is offered gifts (and if he is not subsequently cited), he is not considered to incur a penalty of fifty gold coins." Furthermore, the Advocate presented arguments taught by Ferraris in the *Bibliotheca Canonica*, volume on Appeals, number 6, to further clarify and confirm his points.

[*Latin ed. p. 366*]

366. Regarding APPEALS: "A judicial appeal and an extrajudicial appeal differ from each other in three ways." Firstly, because a judicial appeal presupposes that a judgment has been commenced, as it is a challenge from a lower judge to a superior judge. An extrajudicial appeal, however, does not presuppose a commenced judgment, but rather initiates the very judgment or cause; for the cause only begins when the extrajudicial appeal itself is interposed, and therefore it is more properly called a challenge to the cause, as is stated in chapter [reference missing]. As the Roman [church] states with these words: "Sacred canons permit appeals even outside of a judg-

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ment." Such appeals are not usually called appeals, but rather challenges to the cause. Secondly, they differ because a judicial appeal necessarily involves a judge from whom the appeal is made, and a judge to whom the appeal is made; whereas an extrajudicial appeal does not necessarily involve a judge from whom it is made, since it is possible to appeal extrajudicially even against anyone who is imposing a burden, distinct from a judge. Thirdly, they differ because a judicial appeal, even when improperly proposed, suspends the execution [of the judgment], and causes any attempted actions to be revoked, as is stated in chapter [reference missing], paragraphs 6 and 8, in "De Appellatione." An extrajudicial appeal, however, does not suspend execution, nor does it cause any attempted actions to be revoked, unless it is well and reasonably proposed, and the legitimate reason for the appeal is expressly stated, which, in order to be considered such, must be admitted by a superior, as can be gathered from chapter [reference missing] on Constitutions 45, and from chapter [reference missing] on elections, where it is expressly stated: "We call that appeal legitimate, and therefore it could not impede the election." And in article 10, paragraph 1, the same author states regarding attempted actions: "Attempted actions are the same as innovations against the law, whether during a lawsuit or an appeal." This is gathered from Z. Unica ff. "Nothing is changed by the interposition of an appeal," and from the entire title 16, "Nothing is innovated while a lawsuit is pending." And they are rightly called innovations, because, if nothing is innovated, or if something new is not done that was not previously begun, it is not called an attempted action, but rather a continuation. To "attempt" is not said of someone who performs a continued action, that is, who continues a previous action, because a lawsuit or appeal should not deprive anyone of their possession, and no one is obliged to cease the continuation of their right or possession because of another's appeal." These matters having been extensively discussed, the proposed resolutions must be addressed.

[*Latin ed. p. 367*]

AND INSTITUTION. 367 1$ tiI» i a I. « Whether the designation and institution to a Canonicate can be maintained » favorably (Paul B.) in the case.)) And to the extent that it is negative: I I . » Whether and how provision should be made in the case. » RESOLUTION. — The Holy Congregation of the Council, after discussing the case in its meetings held on June 13, 1868, decided to respond as follows: To 1. Affirmative. To II. Provision is made in the first. PROCEEDINGS IN THE CASE. — The appellant, or more accurately, the new hearing requested by the Procurator of John B., who was unsuccessful in the case, caused the question to be debated again. DEFENSE OF THE BISHOP AND CANONICAL PAUL. — When Paul's advocate understood, among other things, that Paul was being opposed in the possession of the Canonicate due to the Regular state which he had

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professed, he immediately took steps to ensure that Paul, as far as possible, would at least protect himself against such a difficulty. Paul presented a suppliant petition to the Most Holy Father in which he explained the following: that, as a poor man and belonging to the family of the founders, he had obtained the Canonicate from the Bishop, having been dismissed from it by his brother John; that, before the Canonicate was conferred upon him, he had informed the Bishop that he would take care to have himself declared suitable by the Holy Father, if he were a Regular; that he had responded to the Bishop that he did not consider it necessary, since he had obtained secularization with the obligation of establishing a sacred patrimony for his proper support, and that he believed this could be established in the benefit of his family; that, if, however, any difficulty should arise on this account, he would be most ready to make supplications to the Holy Congregation, the Bishop, and the Regulars, to obtain the necessary faculties; that he subsequently made these supplications and obtained a favorable rescript, with the clause added for his proper support; but that he had obtained this faculty only after several months had elapsed from the day of the collation of the Canonicate, and therefore he was requesting, as far as necessary, to have his situation regularized. These supplications made to the Holy Congregation of Bishops and Regulars were received with benevolence and, on July 7, 1868, were dismissed with the following rescript: « By virtue of special faculties granted by the Most Holy Lord, the Holy Congregation of Bishops and [of the Eminences of the Holy Roman Church]...»

[*Latin ed. p. 368*]

372. The matter of the nomination was again brought up at a time when there was a greater influx of external affairs; and he endeavored to demonstrate this with various arguments. But, on the contrary, the Defender of Paul, presenting an authentic document, showed that the fruits of the Canonry enjoyed by John amounted to 9,387,000 livres; these fruits being recorded in the public municipal accounts, and therefore not subject to the risk of being lost. Furthermore, John, the founder of the life, had already obtained, according to the alleged canon, support for his life through the generosity of the Bishop, who had bestowed upon him a much more lucrative Canonry. These matters were again presented in the Congregation on January 23, 1869, under the same formulas of doubt as previously stated, and the Sacred Congregation responded as follows: To I and II, in the decisions and further. From which, among other things, it is gathered: I. That the public order of the Church does not depend in any way on the public civil order, although the Holy See, in order to prevent greater evils, sometimes patiently grants or tolerates that the civil order interferes in certain matters of the Church. II. That a canonically erected Benefice, established under the explicit condition that, in the event

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of violent suppression, its goods should revert to the founders, cannot be considered suppressed or invalidly erected, because civil laws, in their public order, do not recognize it (1). (1) From this custom, contrary to public ecclesiastical law, whereby civil governments do not recognize ecclesiastical institutions that are not considered in civil laws; and, on the contrary, they recognize and defend as their own those things that are considered and established in laws or customs, arises a certain anomalous mixture of ecclesiastical and civil affairs, which in the republic of both societies easily leads to that confusion which is found in the present case. Civil judges easily interfere in ecclesiastical matters, and have before their eyes civil laws, which in this ecclesiastical matter they sometimes temper, sometimes extend, sometimes declare themselves incompetent, sometimes judge and decide as if they were competent. Bishops, who by their own right ought to judge and decide according to ecclesiastical laws, see their jurisdiction curtailed; they are unable to prevent clerics from turning to the civil authorities in ecclesiastical matters, even in the cases of clerics; nor can they prevent the same authorities from interfering in these affairs. These clerics are not infrequently seen to consider the competent civil authority to be the one in these matters, forgetting the Holy Canons, when in fact that authority exercises coercive authority that the Bishop might perhaps exercise in vain. It is often said that a civil judge may judge in ecclesiastical matters with regard to civil effects; to which it can be replied...

[*Latin ed. p. 369*]

AND OF INSTITUTION. 369, he endeavored to demonstrate: As Gallemart testifies in the notes to the Council of Trent, Decree 3, the Holy Congregation of the Council judged that it is "safe, even in conscience," for the one who resigns a Benefice to which he had been promoted, and obtains another for a different reason, to remain silent in the resignation concerning the promotion to the title of the first Benefice; provided that the second Benefice is equivalent to the first. And noting that, in the matter under discussion, the aforementioned John had, as previously stated, obtained a Canonry that was more valuable than the first, the Advocate argued that this teaching was common and was fully confirmed by the Holy Congregation in the Assent to the Resignation of a Benefice, dated April 3, 1734.

DEFENSE OF JOHN. — The Advocate of John, in this new proposition of the cause, argued primarily that no Canonry had been conferred upon Paul, nor had a canonical institution been made, because Paul, being a Religious, even if secularized, could not have been instituted in a Canonry. To demonstrate this, he pointed out that it is the practice of the Holy See, Bishops, and Regular Canons, that when a Religious requests to live outside the cloister for a legitimate reason, the Holy Father first prescribes that he establish a sacred patrimony through the customary formula of a Rescript: "provided that the Advocate is provided with a sufficient sacred patrimony

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duly established for his proper support"; and if necessity or the good of the Church requires it, the Religious may indeed be granted the acquisition of a Benefice, but as an administrator, according to this customary formula of the Rescript: "The Advocate shall be authorized to acquire and retain only one ecclesiastical benefice canonically, in the name of the Holy See, by the title of administration, for his proper support." Furthermore, a new faculty is required if the acquisition of a Canonry of a cathedral church is involved, together with a dignity. He endeavored to confirm this with several resolutions of the Holy Congregation of the Council, in which it is stated that Regulars cannot accept an inheritance, Pisauren, January 11, 1727, and Colonien, dispensation of February 9, 1732, in which, however, only the general principle is confirmed, according to which secular Benefices cannot be conferred upon Regulars, and vice versa, regular Benefices upon seculars; also, in Recineten, Chapelry, of June 22, 1743. Furthermore, the Advocate cited the case of Conchen, regarding the execution of the Rescript of September 3rd, Volume IV, Page XLIII, 24.

[*Latin ed. p. 370*]

370. The matter of the nomination, dated 1852, which was brought before the Sacred Congregation of Bishops and Regulars, and which was reported by the Most Reverend Cardinal Bizzarri in the *Collectanea* for the use of the Secretariat of the Sacred Congregation of Bishops and Regulars, page 665, and also the Plenary Session of August 24, 1850, and July 31, 1852, which was discussed before the Sacred Congregation of Rites, in which the execution of the Rescript was considered concerning Regulars who had been secularized in order to hold an ecclesiastical Benefice. After these things, the Advocate argued that no resignation of the Canonry had been made by John, since the title of sacred patrimony was attached to that Canonry; he recalled that John had contributed his goods, including the title of patrimony, to the foundation of the Canonry; and that it was established that the title of Holy Orders cannot be resigned, given, or alienated, unless first another title is solemnly substituted; and thus the Sacred Congregation in Aquilana declared on February 24, 1652: "The Sacred Congregation answered that a renunciation of the patrimony, to the title of which a cleric was simply initiated by the Holy Orders, made without the permission of the Bishop, is not valid, even after the Benefice has been obtained which is sufficient for his life." Also, in Bitecten, on November 28, 1686, and July 12, 1687: "It often happened that parents bequeathed patrimonies to their sons with the condition that, until they were provided with some ecclesiastical Benefice, or otherwise had means to live comfortably, the doubt arose: 'Whether, after the acquisition of a suitable means of support or a sufficient Benefice, the patrimony vanishes immediately; or rather, is it necessary to have an express substitution of the goods or Benefice obtained from the Bishop made in place of the patrimony, so that, if this substitution

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is not expressly made, the patrimony still remains valid, notwithstanding the aforementioned condition?'" The Sacred Congregation decided: "That the decrees previously issued should be observed, and, in particular, the decree of August 8, 1602, of the following tenor: 'It is asked: Whether the words of the Council in chapter 2, session 2, which are about not alienating, are to be understood in such a way that, after the ordained person has obtained from whence he can live, the permission of the Bishop is also required?'" The Sacred Congregation decided: "That the permission is required, even though the ordained person has obtained a means of support." Moreover, he argued that a new Canonry obtained from the Bishop cannot be substituted in place of the patrimony, for although the revenues of this Canonry were paid by the Municipality, it was not included among the Canonries recognized by the French Government; therefore, the Advocate affirmed, if the local Municipality...

[*Latin ed. p. 371*]

AND OF THE ESTABLISHMENT. 371. He refused to allow those entrusted with the administration to fulfill their duties, and John had no claim to demand the restoration of his Canonry; on the contrary, a sacred endowment could not be established except in a safe and stable matter which produces a real benefit. Furthermore, it was established by facts, based on new documents brought forward, that John had established a sacred endowment for the erection of the Canonry, which endowment consisted of an annual income of 250 livres. It was also established that Paul had received a similar sacred endowment upon leaving the monastery, granted by the Abbot, which he still possessed, in addition to the Canonry he had obtained. Besides these points, the Advocate repeated several arguments that he had previously presented, finally requesting at least the suspension of the Canonry for the duration of John's life. With these matters presented and extensively debated, the following questions were put before the Sacred Congregation: I. "Should we adhere to or depart from the decisions made in the first case? II. "Should we adhere to or depart from the decisions made in the second case?" RESOLUTION. — The Sacred Congregation of Councils, after again discussing the case on September 12, 1868, decided to respond as follows: To I. In accordance with the established order: namely, that the rights of the Canon (John) for the annual 250 livres should be preserved, against which, by law, in the case where the income of the Canonry he now holds is insufficient. And with this, let it be so. To II. In accordance with the established order. With this resolution issued, John, or his Procurator, requested a new hearing and obtained it, but in this third presentation of the case, he presented almost nothing new, except for canon 16 of question 7 of the Council of Toledo, which states: "Whoever of the faithful, of his own free will, has contributed something from his possessions to the Church, if he or his children should be reduced to poverty, let him receive

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support from the same Church for the sustenance of life, for the time being." He argued that the Canonry, which he now holds, is not sufficient for the sustenance of his life; especially considering the charity of food, houses, clothing, and other things of that kind, which he receives.

[*Latin ed. p. 372*]

368. The affairs and consultations concerning the nomination were benignly entrusted to the Bishop (N.), so that, provided the right of the other party is not violated, he may grant the requested dispensation according to his judgment and conscience, in all matters. "However, since this rescript, without prejudice to the integrity and security of the pending question, leaves the matter open, provided the right of the other party is not violated, the Defender of Paul maintained that in the present case, no right of anyone is violated. And he endeavored to demonstrate this from the fact that John could not retain two incompatible benefices, since, having relinquished the first, he obtained the second canonry; and therefore, he had lost any right in the first canonry. Furthermore, the Advocate said that Rescripts and Privileges obtained in a pending lawsuit, and to the prejudice of the other party, cannot be considered surreptitious or prejudicial: for, he replied, the rescript does not bring any prejudice to John; nor can it in any way prevent the Holy See, during the lawsuit, from deeming Paul suitable to hold the canonry in which John himself had lost all right through the acquisition of another canonry; especially since the requested rescript was intended to validate the second benefice already obtained, as it was necessary; and even more so, it should be admitted that, since Paul had been legitimately secularized with the condition of establishing a sacred patrimony for himself, the term 'sacred patrimony,' in the general sense, according to canonical jurisprudence, refers first of all to an ecclesiastical benefice, which is the proper title of Holy Orders; while patrimony or pension is only a subsidiary and extraordinary title, Conc. Trid. sess. 21, cap. 2, de Reform. Another difficulty was raised, namely that John had founded the canonry from goods, a part of which constituted his sacred patrimony; therefore, there was a place for the Tridentine sanction, cap. 2, sess. 21, de Ref., which states: 'He cannot resign the benefice unless mention is made that he was promoted to the title of that benefice; and this resignation is not admitted unless it is established that he can live comfortably from elsewhere, and otherwise, the resignation is null.' Although mention of this patrimony was not made in the decree of erection, nevertheless, having admitted this, the Defender of Paul maintained that John could not claim any right from it, in such a way..."

[*Latin ed. p. 373*]

AND OF INSTITUTION. 373 III. A canonically erected benefice cannot be considered suppressed, nor should it be suppressed, due to a diminu-

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tion, for any reason, in the endowment established in its foundation, even if the case arises from which it perhaps would not have been instituted. IV. Furthermore, you observe that other questions have been raised, rather out of spite, since the plaintiff, while holding a valid canonical institution, could have obtained nothing by law (1). V. Regular clergy secularized by a mere grant of secularization are not, by the Holy See, deemed suitable to hold benefices, and to them, only that which is expressed in the terms of the grant is permitted (2). VI. Ecclesiastical property or a benefice, which is held by title of Holy Orders, should not be considered substituted by the acquisition of another benefice, unless the authority of the Bishop intervenes, who, according to the law, will first effect the substitution (3). VII. Finally, you observe that, although an appeal, which can be interposed in a suspensive manner, immediately suspends the jurisdiction of the judge from whom it originates, it does not, however, have the same force as a simple recourse or appeal to a superior judge, unless the superior judge admits the appeal. VIII. Nor can simple protests issued in the records of the court prevent the jurisdiction and impede the judge or superior from proceeding in his right, unless reasonable grounds are shown. IX. In the present case, unreasonable protests have been detected, and the appeal to the Holy See has been communicated to the court only by John after Paul had received the letters of nomination and institution. However, civil effects, if it is permissible to speak in this way, should be obtained in ecclesiastical matters and concerning ecclesiastical persons, from the judgment of an ecclesiastical judge in Cattolica. But, this consideration being overlooked, this is subject to the greatest equivocation, and in fact, it is easily converted into that reprobated principle, which they call the right to cavil, to the detriment of the Church, whose public authority is scarcely, or not at all, taken into consideration. (1) The very formula of doubt which the contending parties proposed to the Sacred Congregation is of such a nature that, whether the Sacred Congregation responded negatively or affirmatively, John would obtain nothing from it. In the case of a negative response, John would have only the remotest hope of perhaps obtaining something through grace. (2) See Appendix X. (3) Compare the case which we presented in Vol. III, page 535. However, note that in the present case, such circumstances have occurred that the substitution was already sufficiently included in the very new collation of a more substantial canonry, which was conferred upon John in place of the first.

[*Latin ed. p. 374*]

374. MARRIAGES. January 23, 1869. Summary of the case. This case, which recurs, was presented in volume 40, page 190. The question posed was: "Whether it is necessary to consult with the Most Holy Congregation for a dispensation from a marriage that has been consummated and is not being consummated." The Holy Congregation decided on July 18th:

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"Affirmatively, forbidding the husband from entering into other marriages without the consent of the Holy Congregation." The defender of the marriage, appointed by office in Rome, requested a new hearing based on this resolution, and the case was again brought before the court with new opinions from another theologian and canonist. Our readers are already familiar with the summary of the facts and the discussion from the initial presentation of the case; therefore, there is nothing left to present here except what has been added or presented in a new light. Summary of the discussion. OPINION OF THE THEOLOGIAN. After presenting the facts, the theologian offered arguments to demonstrate how, according to sacred canons, it can be proven that a marriage was not consummated due to impotence. And, as St. Thomas in the Supplement, question 5, "r. 1" observes: "The Church has established a specific time period in which this matter can be tested, namely, three years. If, after three years, in which both parties have diligently endeavored to fulfill their conjugal duties, it is found that the marriage has not been consummated, then, by the judgment of the Church, it is dissolved." However, how can it be demonstrated that the spouses have not become "one flesh," according to the ancient practice of the Church? This is explained in Chapter 4 on Frigidity and Maleficence, where Celestine III stated: "If both confess that they have never known each other, and, with the seventh hand of relatives or neighbors of good reputation (if relatives are lacking) touching the sacred Gospels, each swears an oath that they have never become 'one flesh' through carnal intercourse, then it appears that the woman is capable of a second marriage."

[*Latin ed. p. 375*]

MARRIAGE. 375 points concerning conjugal union. Also, from Chapter 4 concerning Proofs, it is stated that Gregory VIII proposed that "a woman declared that she was not known by her husband, nor could she have been known by him, which she proved by oath, as well as by the testimony of seven women, who affirmed, by observing her body, that she was a virgin, while the husband asserted the contrary by his oath. To which the Pope responded: It seems to us that the oath of the girl and the testimony of those seven women should be given more weight." Also, in chapter 1 concerning the Cause of Proofs, the theologian extracted, with the authority of Doctors, the means of proving a woman's virginity: namely, the woman's oath, the observation of her body, a three-year trial, and the testimony of seven witnesses; but not that the signs of the husband's impotence in his body are required. Since every kind of proof is relevant to the matter under consideration, he concluded that a complete proof was obtained. These, he added, are quite and more than sufficient, unless there is some difficulty arising from the judgment of expert medical witnesses who assert that signs of the husband's impotence exist in him. But even this difficulty he dispelled, especially by two observations: first, because three previous

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non-judicial experts, distinguished by their integrity and medical skill, had without any doubt judged the man to be completely impotent, based on several indications from the examination of the entire man's body, and from other external observations; whereas, the judgment of the judicial experts was to be considered less complete, since it was based on some external signs only, and it is known that external parts of the body do not always reveal the defect that lies within. Secondly, because canonical proof does not require that a woman's virginity be demonstrated by the signs of the husband's physical impotence, as discovered by experts; since in this matter, experience should prevail. The theologian confirmed all of this with appropriate authorities, and then proceeded to the causes for dispensation. OPINION OF A CANONIST. The canonist confined the entire question to a single point of difficulty: namely, the testimony of the judicial experts, and carefully noted the following: The judgment of the judicial experts concerning the husband's potency contradicts the opinion of the non-judicial experts; and therefore, if the matter were to be determined solely by the judgment of the doctors, then, according to the opinion of...

[*Latin ed. p. 376*]

376. MARRIAGES. The objections should be refuted, in order that the highest opinion of Experts may be promoted: 2°. But, after a thorough examination of the matter, the judgment of non-judicial Experts is to be preferred, because it was rendered at the very beginning of the controversy, when the matter was still whole and there was no suspicion of collusion; because, moreover, they judged only from external signs; and finally, because the judicial Experts affirmed not a certain, but merely a possible consummation: 3°. The impotence of a man does not always appear from external signs, but often arises from a latent defect, which escapes the eyes of doctors, and therefore it should be judged not so much from a simple examination of the body, as from the fact itself: 4°. Here, we are not dealing with a judgment of the man's impotence, but with a lack of consummation; in this case, it is not a question of what the man can do, but whether the woman is whole: 5°. Therefore, the integrity of such a woman is to be judged not only from the examination of the body, but also from the woman's own statement, from the husband's oath, and from a sworn deposition taken by witnesses, all of which, when they concur in proclaiming the lack of consummation, constitute the fullest proof, and no other considerations of reason should lead the Holy Congregation to grant dispensations from a marriage that is valid but not consummated: 6°. It has been demonstrated by many examples that the judgment of Experts regarding the man's potency can be in good agreement with the judgment of the Holy Congregation regarding the lack of consummation in the marriage, and regarding the dispensation to be granted from a marriage simply ratified, as has specifically happened in Potenza in the month of April

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1858, in which case, although the man was declared to lack potency by the Experts, nevertheless the Holy Congregation considered it necessary to consult [further] for the granting of the dispensation: 7°. Finally, it is true that the judgment of Experts regarding the man's potency is not given much weight in such cases, and that the entire matter is decided based on the woman's integrity, so that, when this is known, there are no examples lacking of dispensations granted without an examination of the man's body. Having considered these things, the Canonist again observed that the judicial Experts, in the present matter, spoke not of the fact of consummation, nor even of the probability of it, but of a mere possibility, which, when the question concerns a fact, it is not necessary to demonstrate: for it is one thing to say that consummation can occur without harming the woman, as they judged; it is another thing to state that consummation has actually occurred, when no trace of consummation has been left.

[*Latin ed. p. 377*]

MATRIMONII. 377. In facto autem, nullum quidem vestigium, etiamsi minimum, relinqui constat, quod testimonium obstitat, postquam obstetrices, omni diligentia adhibita et omnibus experimentis, praesertim vero balneo aquae calentis, adhibitis, hoc confirmavit. Post haec, exponens canonista, attestationes peritorum extraiudicialium, ostendebat gravissima esse impotentiae indicia, quibus innixi de omnimoda impotentia viri, hi periti iudicarunt.

ANIMADVERSIONES DEFENSORIS MATRIMONII. — Defensor, ex officio recolens et inculcans, aversionem mulieris extemplo contigisse post plures annos amoris, contra perpetuas obligationes in matrimonio contractas, totus in eo erat, ut insinuaret negligendas esse attestationes extraiudiciales priorum peritorum, et unice in consideratione habendas esse attestationes quinque peritorum iudicialium, qui potentem virum iudicarunt, ad possibilem saltem matrimonii consummationem, sine laesione mulieris. Admissa autem sola possibilitate consummationis, matrimonium solvi non posse, quod nonnullis allegatis exemplis ostendere studuit. Hisce aliisque animadversis propositum est resolvendum dubium: « An sit standum vel recedendum a decisis in casu. »

RESOLUTIO S. Congregatio Concilii, causa denuo discussa in comitiis habitis die 23 Ianuarii 1869, respondere censuit: In decisis.

EX QUIBUS COLLIGES:

I. In hisce causis, argumentum praecipuum ad ostendendum, matrimonium non fuisse consummatum, desumi ex integritate virginali mulieris.

II. Hac integritate rite ostensa, abstractam possibilitatem ex parte viri desumptam, qua tradatur, ipsum posse matrimonium consummare absque virginali laesione mulieris, posthabendam esse.

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III. Eamdemque possibilitatem spernendam omnino esse, si talia in facto concurrant adiuncta, quae eam, si qua sit, ad actum devenisse satis excludant.

[*Latin ed. p. 378*]

378. BENEFICES. On January 23, 1869, the following occurred: Pius, Canon of N., ordered, through conciliar documents, the establishment of a simple benefice, using these words: "Upon the death of the aforementioned testator, Archpriest N., as executor of the testament, shall, as quickly as possible, erect and endow, by authority and decree of the Ordinary, in the cathedral church, at the altar of the Lord, a perpetual simple ecclesiastical benefice, which shall be called the Abbey of St. Domninus." Regarding the right of patronage, both active and passive, concerning the passive right of patronage, he wished that a cleric or priest from the male line of the family M. be chosen. Upon the death of the testator, his will was religiously entrusted to execution. Now, that simple benefice was held by John M., a cleric, who had been canonically instituted in that simple benefice in the year 1842. However, after several years, John moved from his place to another city outside the diocese, where he practiced law, and he relinquished his tonsure and clerical habit. His Bishop, through the General Vicar of the diocese in which John resided, warned him, due to the unseemly nature of his life; especially, due to the manner in which he wore secular clothing. John, who had not acquired a good reputation for morals, and who, not ceasing from this way of life, led two patrons to present petitions to the Episcopal Curia, so that, by a declaratory judgment, John might be deprived of the benefice, according to the Constitutions of Sixtus V, of the sacred day of January 18, 1589, and of Benedict XIII, regarding the government of the Cattolica Ecclesiae, of May 2, 1723, and so that, from then on, another patron might again be named, and that he who was to be named passively might enjoy the rights established by the testator. The Capitular Vicar (for the episcopal see was then vacant) observed all that seemed prescribed to him by the most holy canons, before proceeding to judgment. Therefore, through the affixing of an edict to the doors of both the cathedral church and the parish church, within the boundaries of Fismes, where the assets of the benefice were located, John was summoned, for all legal purposes, to appear within nine days.

[*Latin ed. p. 379*]

BENEFICES. 379. He was ordered to appear personally before the Vicar Capitular, within three specified days, so that he might present any defense he had. Four witnesses were also summoned, who were deemed suitable to attest to the intentions of the accuser. On the appointed day, the accuser, the defendant, and the summoned witnesses appeared before the Vicar Capitular. John was questioned, and he vehemently denied having

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relinquished his clerical attire and tonsure, but he admitted that he had indeed grown a beard to conceal a certain ailment. Subsequently, the four witnesses were questioned before the defendant. Under oath, they unanimously affirmed that, for at least three years, they had seen John discard his clerical garments. After the examination of the witnesses was concluded, the continuation of the proceedings and the final judgment were postponed to the following day, with the agreement of both the accuser and the defendant. However, John, although he had promised to appear, did not come, but instead sent a protestation in which he simply asserted that it was untrue that he had relinquished his clerical tonsure and attire, and that he had not rendered himself unworthy of the benefice in which he had been canonically instituted; and that he had faithfully fulfilled all the obligations pertaining to the benefice; and therefore, he formally protested against any action that might infringe upon his rights; and (the foolish lawyer added) that he recognized no laws other than civil laws, and no authority other than the authority of the civil state. After this protestation was read and heard, and after the conclusions of the Fiscal Advocate were heard, the Vicar Capitular, on the same day, issued a final judgment, in which he declared that it was established that John had, three years ago, discarded his ecclesiastical attire, and that he had therefore incurred the penalties prescribed in the aforementioned Constitution Bene dicti XIII; and therefore, he declared that John was deprived of the ecclesiastical benefice, and that it was vacant for all legal purposes. Furthermore, he declared that the period of deprivation should be counted as three years, and therefore, in accordance with the aforementioned Constitution, John was obligated to restore all the fruits of the said benefice that he had improperly received, and to apply them to the fabric of the cathedral church. Following the pronouncement of this judgment, the economist of vacant benefices, established by the civil government (in accordance with the higher civil liberties...

[*Latin ed. p. 380*]

380. BENEFITS. According to the laws of the order, and following the established principle that each one should receive what is his, John received possession of the benefit, since he was considered to be legitimately entitled to it. After this judgment, John remained completely silent for two months and more, until he issued the following declaration at the Episcopal Curia: "The undersigned declares to the Episcopal Chancery that he appeals the judgment passed against him." After four months and more, he presented a petition to the Sacred Congregation, in which he requested that the judgment be annulled, because he had been deprived of the benefit without having been legally summoned, without having been given the opportunity to defend himself, and without having been given a term within which to correct his behavior, or to be judged and deprived of the benefit, if that

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were just, according to the sacred canons and the practice of the Holy See. Furthermore, John stated in the same petition that he had been unjustly deprived of the benefit for trivial reasons, namely, because he did not reside there and because he did not wear the habit and tonsure. He argued that the benefit was not a residential one, and that he had faithfully fulfilled the obligations of the benefit; that the forensic duties with which he was occupied were compatible with the benefit, by which he supported himself because of the meager income of the benefit; that he had not been notified of the judgment of the Curia, because he had not received a copy of it, and that, in any case, he had only learned of it indirectly, and that therefore he now wished to pursue his appeal before the Holy See; and that he implored that the execution of the judgment be suspended under pain of further injury and injustice, and that the judgment be declared null and void, with all that follows therefrom, due to the lack of proper notification, since he had been summoned by the posting of an edict as if he were an unknown and an outsider, or at least due to the injustice of the judgment itself. However, reserving his rights to be asserted in due time, in the present instance he alleged a complete lack of proper notification, as well as the lack of a reasonable term for correcting his behavior. These requests were referred to the Vicariate Capitular for information and a recommendation, so that, after hearing the Promoter of Justice of the Curia, and others who might be interested, and after setting a deadline for them to assert their rights before the Sacred Congregation, the proceedings and all other documents pertaining to the matter would be sent. The Curia fully fulfilled its duty. However, John, despite being warned, did nothing.

[*Latin ed. p. 381*]

BENEFITS. Disputation 381, concerning optics. OBSERVATIONS REGARDING MATTERS OF DUTY. Since, from what has been explained, two questions naturally arise, one concerning the validity of the interposed appeal, which is incidental; and the other concerning the merit of the judgment: the following observations pertain to the first. John interposed an appeal after two months and more. The fatal days, or the days useful for appealing, are established by both laws to be ten days from the day of the pronouncement of the judgment, as is read in chapter 15 of the Sentences and of Civil Law, where it is written: "Thus we have judged it necessary to respond, that since, after a space of ten days, the judgment passes into the authority of the res judicata, he who, within that time, does not avail himself of the aid of appeal, has denied himself the right to appeal; likewise in chapter 36 of Testaments, chapter 32 of Elections, chapter 8 of Appeals, section 6. With this agrees the civil law, Audient. Hodie de App., where it is written: 'Today, however, to everyone is granted a space of ten days, to be counted from the revocation of the judgment.' Also, Novella 23, chapter 1. Therefore, since the appeal has been extended after

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ten days, it is now considered a peremptory appeal, and the judgment has passed into the authority of the res judicata, which is held as true. However, it should not be overlooked that the ten days do not always begin from the day of the pronouncement of the judgment, but rather, repeatedly, from the day the notice was received, as is read in chapter 9 of Appeals, where it is written: 'Within ten days (after having learned of it), if he wishes, he may appeal.' This must not be understood in a general sense, so that any ignorance is excused, and in any case; rather, it is understood that this interpretation holds place in judicial cases, provided that the defendant, against whom the judgment has been pronounced, is contumacious; but it is most important to know by what reason someone must be called contumacious: for the defendant, who has been present in the judgment, and who, although summoned to appear on the day fixed for the pronouncement of the judgment, was absent, is to be considered as present, and he is to be held guilty if he does not receive the judgment; it is quite different if someone is called contumacious, because he has never been present in the judgment, and has learned nothing of the entire series of proceedings, nor of the judgment passed against him; in this case, it has been accepted, out of a certain equity, that the ten fatal days begin from the day the notice was received.

[*Latin ed. p. 382*]

382 BENEFITS. Concerning the science of ecclesiastical law, Cardinal De Luca, in *De Iudiciis*, book 3, number 15 and following, Scaccia in *De Appellationibus*, question 1, 2, and others commonly write. Regarding the merit of the cause, it has been noted that clerics holding an ecclesiastical benefit, with clerical tonsure, ought to wear the clerical habit, and this has been ordered under very grave penalties, as in Clement II, *De Vita et Honestate Clericorum*; the Council of Trent, session 14, canon 6, *De Reformatione*; and especially in the Constitution of Pius V, *Inter gravissimas*. In this Constitution, the Supreme Pontiff strictly ordered that clerics should wear the clerical habit under penalty of deprivation of any benefit, the penalty being incurred by the very act of non-compliance, so that those who act against it should be declared deprived without any citation, warning, decree of a judge, or legal process. However, the rigor of this Constitution was tempered in the Constitution of Benedict XIII, *Apostolicae Ecclesiae*; which, although it orders that clerics of their own order who abandon their proper vestments should be deprived of benefits, it adds: and for this purpose, not only may [the bishops] proceed against them through citations, but they ought to do so, observing the order of law, and to pronounce a declaratory sentence of deprivation against those who have obtained benefits. With these and other considerations in mind, the following questions are to be resolved: I. "Whether an appeal (of John) is permissible in this case." And, in the affirmative: II. "Whether the sentence

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of the Vicar Capitular should be confirmed or rejected in this case."

RESOLUTION. The Sacred Congregation of the Council, on January 23, 1869, responded as follows: To I. Negatively. To II. According to what is provided in the first question.

FROM WHICH WE GATHER:

I. In cases which are brought before the court in due order, a sentence, if the faculty of formally appealing is present, can only be exercised within ten days from the time the sentence is pronounced; and for this reason, they are called fatal appeals.

II. By equity, the faculty of appealing is repeatedly granted within ten days from the day of notification of the sentence; especially when the one who is losing is considered contumacious, because he has never, whether personally or through a procurator, been present in the trial (1).

(1) The reason for this equity is given by Cardinal De Luca, *loc. sup. cit.*, with these words: "By a received custom, it is always permissible to appeal within ten days..."

[*Latin ed. p. 383*]

BENEFICES. 38S. J. After the time for appeal has elapsed, the judgment in a case becomes final and is considered true. IV. Finally, it is understood that a Benefice in Clairac can be held by someone who, although not wearing the habit and tonsure, is deprived of the Benefice by the intervention of a judge, who declares that he has incurred a penalty (1).

CHAPLAINCIES. December 19, 1868. Summary of the case. It was established that the heirs of John, in his will of the year 1694, bequeathed to Joseph Martham and Euphrasia, descended from Aloysius N. and Laurentia, his sister, and furthermore, he bequeathed certain goods to a certain pious Society, with the following clause: "I establish the right of patronage for all days from the day that knowledge of this is truly obtained, so that the parties in dispute may reasonably settle the matter, which is often prepared by the negligence or collusion of the Procurators, and so that a judgment may not be appealed within the legal time." It is worthy of note that the same author states something shortly thereafter concerning the effect of this equity: namely, that although those who cannot truly be considered contumacious are granted the faculty of appealing within ten days from the time that true knowledge of the judgment is obtained, nevertheless this faculty does not impede the execution of the judgment; therefore, someone reasons incorrectly in this way, as the same Cardinal notes: "It is a certain rule that everything that is done concerning the execution of the judgment is considered suspended, while the term for appeal is pending; but in the case of contumacy, the term for appeal is the entire time in which the heirs, the beneficiaries, and the perpetual children do not have certain knowledge

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of the goods bequeathed to the pious Society; therefore, everything that is done during this time must be considered suspended." However, the same author notes that the fallacy of this argument lies in the minor premise, since that time is not a term that is legally due, and therefore does not impede the judgment from becoming final; but rather, it is a certain equity introduced by the law, so that something that cannot be done strictly by law can be done outside the term. Regarding the request for a new hearing after ten days in cases before the SS. Congregations, see what we have presented in Vol. III, page 251. (1) Concerning the distinction between a declaratory judgment and a condemnatory judgment, we have mentioned something in Vol. I, page 463. Concerning the penalties to which Clerics are subject who do not wear the habit and tonsure, see Appendix XI in this volume.

[*Latin ed. p. 384*]

384. CHAPLAINCIES. These are to be successive, without end, whether they be men or women, who are descended from the line of Aloysius N. and Laurenlia, my sister, under this condition: that if a priest exists from said line, he must celebrate the Masses and receive the income; if there is no such priest, they shall choose a priest who will celebrate and fulfill the obligations, and the remainder shall be given to the pious Sodality." To carry out this will, the Vicarius Capitularis established the chaplaincy. With the passage of time, several questions arose, the first of which was whether the chaplaincy should be considered a lay or ecclesiastical foundation: after all considerations and additions, the Sacred Rota judged it to be a lay foundation. The second question that arose was whether those descended from Marthe would enjoy the right of patronage: for Marthe married a certain Francis C., and, having received a substantial dowry from said Aloysius, her father, she declared that she renounced all other rights pertaining to her, both concerning paternal and maternal goods, and the inheritance of the late John, the testator. From this renunciation, the question arose twice whether the right of patronage was considered to be included in that renunciation, and the opinion prevailed that the right of patronage was not considered to be included in that renunciation. In the year 1866, a Canon C., descended from said Marthe, had peacefully possessed the chaplaincy for a long time, when Alexander N., descended from Jo seph, made humble petitions to the Most Holy Father, explaining that Canon C. had requested and obtained the chaplaincy, while he himself was the last descendant of the N. family, and that he was unaware of this right; furthermore, he asserted that Canon C. should be considered excluded from the right of patronage due to said renunciation, and he petitioned that Canon C. be removed from possession of the chaplaincy and that he himself be restored in all his rights. Observing the customary procedures for preserving their alleged rights, the parties presented their claims to the Sacred Congregation. A synopsis of the arguments. DEFENSE OF ALEXANDER. Alexander argued that the

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right of patronage was only hereditary, since the testator had said: "From all the goods that I leave behind, I establish a perpetual right of patronage for my heirs," and that anything added beyond these words was equivalent to these.

[*Latin ed. p. 385*]

CHAPLAINCIES. 385, concerning the rights of heirs and successors*. However, it is stated in law that such words simply convey a hereditary quality, and therefore, etc. Moreover, since it is to be considered that the patronage right is hereditary in cases of doubt, see Card. De Luca, *Disputationes de Jure Patronato*, 60, n. 1. From this, it follows that any patron can renounce the patronage right to the detriment of the successors, and grant it to others, without the heirs being able to object to this, see *Sacra Rotta*, before Ansaldo, decision 340, n. 6; Card. De Luca, *Disputationes de Jure Patronato*, 18, n. 3. Therefore, all those descended from Martha are excluded from this patronage right. And Alexander sought to confirm this, noting that from the year 1616, when the renunciation was issued, until the year 1646, when the cause was brought before the court concerning the nature of the chaplaincy, neither Martha nor her heirs ever mentioned it. Therefore, since the heir of Martha currently possesses the chaplaincy, he must be removed from this possession, and, conversely, restored to the exercise of his rights. He stated that the Canon could not be aided by the Chancery Regulations concerning triennial or decennial possession, which protect possessions lacking a valid title; since the chaplaincy was a lay one, and therefore not subject to the Chancery Regulations.

DEFENSE OF THE CANON. He first pointed out that the patronage right confers not a hereditary, but a familial and ancestral quality, since the testator had expressed his wishes that the entire family, including Aloysius N., married to his sister Laurentia, should enjoy this patronage right. Therefore, anything said against the alleged renunciation cannot help the cause of Alexander. As in feudal holdings and trusts, so too in the patronage right, each of those called has a proper and personal right, not borrowed from the ancestors, but derived from the will of the founder itself, see Card. De Luca, *Disputationes de Jure Patronato*, 31, n. 16; 51, n. 21, and elsewhere. Therefore, even admitting the alleged renunciation by Martha, the right of the successors remains protected. Indeed, the Canon, the possessor of the chaplaincy, argued that Martha had not renounced the patronage right: for renunciations are considered odious in law and receive a strict interpretation, see *Acta*, Vol. IV, Section XLIII, 25.

[*Latin ed. p. 386*]

386. OF ECCLESIASTICAL BENEFICES. It is necessary that [a person] renounce, and that this renunciation be explicitly stated, only that which is being relinquished; but it has been demonstrated that Marthe, in the

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renunciation made on the occasion of marriage, did not utter a single word concerning the right of patronage. Moreover, if, by hypothesis, it were admitted that Marthe had relinquished, besides lucrative rights, also honorific rights, among which the right of patronage is included, the Canon would be prepared to demonstrate that such a renunciation was null, due to the lack of the formalities required by the statutes, which are necessary for the validity and efficacy of the act. It is doubtful whether one should grant the prayers of Alexander in this case.

RESOLUTION. – The Sacred Congregation, having knowledge of the matter in the assembly on November 19, 1868, decided: Negatively, in all respects.

FROM WHICH ONE MAY GATHER:

I. It is futile to appeal to the Holy See, so that those who are in possession of the goods of a lay chaplaincy may be removed from possession, since a dispute is raised concerning the title of possession.

II. For those who possess [the property] cannot be expelled, unless it is clearly demonstrated that they are in illegitimate possession, and that they are illegitimate holders of the goods (1).

III. In the present matter, the Canon has clearly demonstrated that he also possesses a true title of possession.

(1) To expel the possessors of the goods, in the matter under consideration, it must be clearly demonstrated in two respects: 1. that the possessor does not have a true title of possession; 2. that the possession was taken without any plausible title by which bad faith is excluded. If the first is demonstrated, so that the judge would judge that the possessor does not have a true title of possession (which judgment is called *iudicium petitorio*), it does not follow that the possessor can be expelled from possession, unless it is also demonstrated that the possessor took possession without any plausible title or good faith (which judgment is called *iudicium possessorium*). Indeed, this good faith or some title is presumed by law through the very fact of peaceful and long-lasting possession.

[*Latin ed. p. 387*]

387 FROM THE SACRED CONGREGATION FOR RITES. DECREE FOR THE WHOLE CITY AND THE WHOLE WORLD. — "Truly, Saint Paul, the unfailing herald of the Gospel, from the Cross, was indeed sent by the Lord in these very times, namely, at the eleventh hour, to instruct his people, and he received a full and overflowing reward. For, sharing in the sufferings of Christ, and traversing cities and villages, he dispensed the word of life, providing nourishment for the eternal food of the Christian family; he strengthened the weak with the opportunity of doctrine and truth, consolidated the divided, and converted the corrupt; until, rejoicing

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in that which he had sown in tears, he carried away the fullest sheaves to the eternal tabernacles; and he left his spirit to his disciples, whom he had gathered under the banner of the Cross, that they might continue to labor in the cultivation of the vineyard."

Furthermore, the right hand of God, exalted above the heavens in a sign of this glory, shone forth among mortal men with wonders, by which the Most Holy Lord Pope Pius IX, having heard the counsel of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, and of the Sacred Prelates, who in the year 1867, from all parts of the world, had come together to the City to celebrate the anniversary of the birth of the Princes of the Apostles, enrolled this Apostolic Man in the ranks of the Saints.

After the highest honors had been paid to Him by many of the same Cardinals and Prelates of the Holy Roman Church, so that the faithful might be more readily incited to love the Cross, so that they might know nothing else but Jesus and this Crucified One, they requested that the Most Holy Lord Pope Pius IX extend the Office and the Mass of Saint Paul from the Cross, of the Congregation of Clerics Expiatory of the Cross and Passion of Our Lord Jesus Christ, to the entire Church. To their requests, I, the Secretary of the Sacred Congregation for Rites, subscribed, to the same Most Holy Lord.

[*Latin ed. p. 388*]

388 THROUGHOUT THE CITY. Having been faithfully informed, His Holiness has decreed that, from now on, the feast of Saint Paul, celebrated with the Office and Mass approved for the Clergy of the City on July 11th of the aforementioned year, shall be observed annually on April 28th, with a lesser double rite, by all, both secular and regular clergy, of both sexes, who are bound to the canonical hours in the universal Church, provided that the prescriptions of the rubrics are observed. Contrary provisions notwithstanding. January 14, 1869. » C. Epis. Port et S. Rufinae Card. PATRIZI S. R. C. Prefect. In place of the seal, Dominic Bartolini S. R. C. Secretary. APPENDIX X. CONCERNING THE RIGHTS AND FACULTIES GRANTED: It has been debated among the parties regarding the necessity of distinguishing between regular and secular clergy, as pertains to the granting of indulgences, as is required by those initiated into the Sacred Orders in order to obtain ecclesiastical benefits and ecclesiastical dignities, along with those who are secular. We shall speak more fully of this matter here, according to the law and the practice of the Holy Congregations. It has been determined that the regular state, within the Catholic Church, as a state of Christian perfection for those who follow and profess the evangelical counsels, is clearly distinct from the common body of the faithful: this distinction has been praised and confirmed by the Church from ancient times. Indeed, certain regular clergy possess offices, rights, and privileges within the Catholic society that other faithful and clergy do not possess; but

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all of these originate primarily from the solemn profession in which at least three vows are solemnly made to God: poverty, chastity, and obedience. This state, once fully embraced by a person, remains with them until death.

[*Latin ed. p. 389*]

IX, x, 389: He is separated, and no one who is a Regular [can be] so, unless the Orator ceases to be so while he lives, unless he openly and duly demonstrates to the Holy Congregation for the same reason that he has no other recourse, otherwise he will be subject to the religious penalties of nullity and others, according to the decrees of Innocent XII, June 4, 1692, and of Clement XIII, April 15, 1768, which rarely happens, so that the Regular may be benignly excused from the obligations of secularization, by the will and conscience of the aforementioned Bishops, who can, with regard to the truth of the matters presented to them, grant that the Orator, while he lives, may lawfully remain outside the cloister of his Religious Order, in clerical or decent secular attire, provided that he is able to do so, reserving, however, the substantial vows of his religious profession, which always remain in full force in such a state, and retaining, internally, a constant reminder of this obligation by some sign of his regular habit, and also of obedience and jurisdiction to the Ordinary, in whose diocese or territory he happens to reside; in all other respects, he shall remain subject to the solemn vow of obedience, and shall present this Indult to the Apostolic Orders... notwithstanding etc.

Furthermore, if it concerns a Regular who has not been initiated into the sacred Orders, the Indult of secularization, which is granted by the Holy Congregation of Bishops and Regulars, is expressed in these or similar terms: "The Most Holy [See], having attentively considered the information of Bishop N. and of P., Procurator General of the Order... having considered the particular circumstances present in this case, benignly grants... and therefore commands that the same be committed to Bishop N...."

And truly, if it concerns a Regular who has been initiated into the sacred Orders, the same Indult, obtained by the same Holy Congregation, is expressed in these or similar terms, for the reasons mentioned above: "The Most Holy [See], having attentively considered the information of Bishop N. and of P., Procurator General of the Order... having considered the particular circumstances present in this case, benignly grants... and therefore commands that the same be committed to Bishop N...."

[*Latin ed. p. 390*]

390 APPENDIX X. "Provided that the facts stated are true, and provided that the Orator possesses a sufficient patrimony lawfully constituted for his proper support, he may be granted the faculty of remaining in the world as long as he lives, wearing the presbyteral habit, and retaining, internally, another sign of the regular habit, at his own discretion and conscience,

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provided that he observes the essential obligations of his profession and lives according to the force of his religious vow under the obedience of the Ordinary in the place where he resides, etc. Furthermore, if the matter concerns the granting to a Regular Canon already secularized the obtaining of an ecclesiastical Benefice, these or similar words are often used: "The Orator is hereby authorized to obtain one ecclesiastical Benefice only, whether residentiary or with the care of souls, to the extent that he is worthy, so that the Ordinaries of the Institute and the Superiors, with due deliberation, may conscientiously judge that he may lawfully acquire and retain it in the name of the Holy See, as administrator for his proper support." Indults of this tenor are granted. Therefore, provided that all obligations arising from his profession remain, and that the Regular Canon maintains before the Church the religious status which he professed, he may, through these Apostolic Rescripts, claim only those rights and indulgences which are expressly granted; in other words, such Indults are subject to a strict interpretation. The meaning of these Indults, as they contain, is this: the Regular Canon is released from the obligations which he contracted with the Order through his profession, and reciprocally, the Order is released from the obligations contracted towards the same Regular Canon. Indeed, it has been observed that, through profession, a mutual agreement arises between the Order and the Professed, along with mutual obligations, in addition to the obligations of the vows which are solemnly declared to God: concerning this quasi-contract, Innocent III spoke beautifully in chapter *Ad Apostolicam* de Regularibus, at a time when the period of probation was not subject to a law of nullity; he wrote: "For it is permitted that the time of probation, by the holy Fathers, is an indulgence not only for the benefit of the Convert, but also for the monastery, so that both may test the asperities of the one, and the manners of the other..." However, if, before the regularly prescribed time of probation, he who desires to receive the habit receives it and makes profession, either by himself or by another, the Abbot, by granting him the monastic profession and the monastic habit, both seem to renounce what is known to be introduced for their own benefit; therefore, he is bound by the profession made and accepted to observe the rule... "But when, through this quasi-contract, the faithful enters a new state of perfection, ratified by the Church, he can no longer be released from it except by the Supreme..."

[*Latin ed. p. 391*]

X. By the authority of the Church; since these matters are involved, nothing can be altered except in the manner in which it is connected. And the Council of Trent clearly stated this in chapter 1 of session 25 concerning Religious, where it decreed, "that all Religious, both men and women, shall arrange and conduct their lives according to the rule which they have professed, and above all, they shall faithfully observe those things which per-

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tain to the perfection of their profession, such as obedience, poverty, and chastity, and also any other vows and precepts which are specific to a particular rule and order, as well as those things which pertain to their common life, sustenance, and clothing. And all care and diligence shall be exercised by Superiors to ensure that they do not deviate from these; for it has been determined that those things which pertain to the essence of the religious life cannot be relaxed." Therefore, that relaxation granted by the Roman Pontiff to a Religious through a decree of secularization, except for those obligations of which we have spoken, leaves the rest intact. Thus, the solemn vows made to God remain, and the obligations connected with those vows also remain, as well as the avoidance of those things that are contrary to the observance of vows. All of these things seem sufficiently expressed by the words inserted in the decrees concerning the substance of the vows. But when, through that relaxation granted between a Religious and his Order, the observance of the vow of obedience to the Superiors of the Order becomes impossible, then, since the vow of obedience remains firm, the Superior to whom obedience is due is also changed, by the force of the vow itself. Having considered these things, it is easily understood what a Religious loses with respect to the religious order he has left, and what he retains or acquires with respect to the secular state to which he is converted. With respect to his order, he loses communion with all the spiritual and temporal goods which are proper to the order he has left. With respect to the secular state, he retains those privileges which belong to him because of the solemn vows by which he is perpetually consecrated to God; that is, he retains the dignity proper to his person, because of the solemn vows by which he is perpetually consecrated to God, and therefore, at least, the privilege of the forum. This is clearly recognized in a lay Religious who has been secularized, who certainly retains this privilege and that dignity, because it does not well comport with servitude to base secular offices and sordid and improper arts; nor with military service. Regarding this matter, reference can be made to the case discussed in the Sacred Congregation for Immunity, which I mentioned in Volume II, page 115. In that case, a certain case from the Anagni forum of June 6, 1826, was discussed, in which a certain lay Religious, having obtained a decree of secularization, had subjected himself to a sordid art; but when he had contracted a debt and was unable to pay it, he was brought before the lay forum and condemned.

[*Latin ed. p. 392*]

392 APPENDIX X. concerning the imposition of canonical penalties: Following an appeal from this sentence to a higher tribunal, there was doubt regarding the validity of the previous sentence due to a lack of jurisdiction; and a cause was proposed before the Most Holy Congregation of the Holy Office, with the formula of doubt: "Whether Joseph..., legitimately dismissed from the (N.) Order, enjoys the privilege of the 'forum' even

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in the case in question," the response was: "Affirmative," and with the understanding: "It is the intention that the Bishop should compel Joseph to 'walk in a manner worthy of his calling and to abstain from any sordid and improper activity.' And in another case on August 22, 1843, when a certain cleric, having taken vows and subsequently been dismissed from the religious life, requested permission to bear the name of a soldier, and the doubt was proposed: "Whether the petition, by which the cleric dismissed from the religious life, insists for the military rank, should be granted," the response was: "Negative." "For this status does not properly harmonize with the observance of vows and with the dignity of a person consecrated to God. If, however, he is a priest or has received the sacred orders, he retains these privileges even by another title, because he is a priest, and the others that are consistent with the exercise of his priestly office, unless something particular prevents it. Although he is released from obligations towards his religious order, whose rule he professed for the sake of perfection; nevertheless, before the ecclesiastical hierarchy he is considered as a regular, and he cannot claim those rights which are proper to others; either because they are not expressly granted in the dispensation of secularization; or because they are expressly denied to regulars in the law; or because they are not entirely compatible with the observance of vows, such as the right to obtain ecclesiastical benefices, and, what is more, ecclesiastical dignities. This right is to be considered denied to regular clerics for these three reasons. For it is not granted in the dispensation, and therefore it is denied; it is granted only to the extent that it can preserve the decorum of the priestly order, so that they are not forced to beg with indecency for the support of their priestly order; and to the extent that it is suitable for a regular who has been legitimately dismissed from his religious order: these two are obtained through the patrimony which the regular must provide for himself and establish before he can use the dispensation of secularization, which is granted under this condition. This patrimony is substituted by the title of poverty or the common table to which the regular order was obligated to provide by a quasi-contract, as mentioned above. With these considerations in mind, the objection ceases that it is said that the canonical title of Holy Orders is an ecclesiastical benefice; but the patrimony is only a subsidiary title and cannot be admitted except in the absence of a benefice: this is true for other clerics, although in these modern times, this rule is scarcely, if at all, observed: but it is not true for regulars, for whom..."

[*Latin ed. p. 393*]

IX. X. The title of ordination ought to be the title of poverty or the common table. However, even though they have been laicized, and before the assembly of the faithful and the ecclesiastical hierarchy, they do not entirely cease to be Regulars, only the faculty is granted, and the obligation is imposed, to care for and establish for themselves a patrimony which is

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not entirely distant from the title with which they were initiated into the sacred Orders, without dishonoring the clerical body.

2°. This same right of obtaining and possessing secular benefices is denied to them by law. For it is a general principle that secular benefices are to be conferred upon seculars, and regular benefices upon regulars; argument from chapter "Concerning Benefices, Prebends," section 6. But the force of general principles, which govern the entire ecclesiastical discipline, is not easily nullified unless by some peremptory exception: but such an exception would not be that in which a laicized Regular would respond: "that he is no longer a Regular"; for whoever is a Regular does not cease to be so before the Church, unless he duly demonstrates that his profession was null. Nor would an exception be peremptory in which a Regular would object that he is no longer attached to a monastery; for what is granted to them by mere indulgence cannot be drawn upon as an argument for those rights which are denied to Regulars by law, not only for this reason. The Council of Trent considered the case in which a Regular is transferred from one Order to another: and in session 393, in order that the Regular may not use this transfer to obtain secular benefices, for example, because he is transferred to an Order of Regular Canons, to whom, according to the old law (chapter "Concerning the Vow of Monks," and there Fagnanus), the right of possessing secular benefices was not forbidden, it decreed: "that such a one, even if he is a Regular Canon, is entirely incapable of possessing secular benefices, even those that are endowed." Chapter 44, session 44.

3°. Finally, this same right is also denied to a laicized Regular by reason of the vow of poverty to which he remains perpetually bound. Even more so, because, once laicized, whatever the Regular acquires, he does not acquire for the monastery. The sacred canons perhaps forbid nothing so strictly as the peculium of Religious, so that they may not have either property, nor usufruct, nor the use of goods. Clementine, "Exivi," §, for the words "signum," and "Extravagantes Ioannis XXII," ad conditionem; and more expressly in the Council of Trent, chapter 8, session 25, "de Reg." "Nor shall Superiors henceforth grant to any Regular, even for usufruct, or use, administration, or commendation, any stable property." Nor were there wanting Authors, who, while interpreting the old canons, taught that even the Roman Pontiff cannot dispense in this matter, as is stated in the chapter "Concerning the Monastery," in which Innocent III wrote: "Nor shall the Abbot consider that, concerning the holding of property, he can..."

[*Latin ed. p. 394*]

394 APPENDIX X. To dispense to some Monk; for the renunciation of property, just as the observance of chastity, is so closely connected to the monastic rule, that even the Supreme Pontiff cannot grant permission against it. Therefore, the Abbot of Panormitanus notes in this text: "Neither the Abbot, nor even the Pope, can dispense, so that a Monk may freely

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administer his own property; although the Pope can act concerning a Monk, He cannot dispense a Monk." From all of this, it appears that Regular clergy who have been secularized cannot claim any rights or faculties other than those which were granted to them in the decree of secularization; and furthermore, something must also be said about those Regular clergy who, having obtained the grant of secularization, behave as if they were released from all the laws of their profession; which, especially with regard to the vow of poverty, they ought to remember the old sanction, which, although it is not now enforced, shows what is the Church's judgment regarding the neglect of the solemn vow of poverty: "If property is found with anyone in death, it shall be buried with him outside the monastery, in the dung heap, as a sign of his ruin." Cited, chapter. Concerning monasteries.

APPENDIX X I. PRINCIPAL CONSTITUTIONS ISSUED AGAINST CLERICS WHO DO NOT WEAR THE HABIT AND TONSURE, BY THE COUNCIL OF TRIDENT, AND LATER. On the occasion of the case of the Benefice mentioned on page 378, we present here the Constitutions which were issued against Clerics who do not wear the habit and tonsure. The Council of Trent, Session 4, chapter 6, on Reform, renewed and expanded the Constitution of Clement V, issued in the Council of Viennensi, which is also found in Clem. 2, on the life and duties of clerics, chapter 3, with these words: "Since those who, abandoning the proper garments of their order, presume to wear others in public, without a reasonable cause, render themselves unworthy of the privileges of their order, we decree by this Constitution that whoever, as a cleric, wears a garment of wool or linen in public (unless a reasonable cause exists), if he is a beneficiary, shall be suspended for six months from receiving the fruits of the benefices which he holds; if, however, he is not a beneficiary, but is constituted in the sacred Orders below the priesthood, he shall be rendered ineligible for receiving an ecclesiastical benefice for the same period. We also decree the same concerning those clerics who wear such a garment together..."

[*Latin ed. p. 395*]

"IX. And those who publicly wear the tonsure, as well as those holding a dignity, office, or benefice to which the care of souls is attached, and also all others who are established in the priesthood, and all religious, who ought to demonstrate the inner honesty of their morals through the outward decency of their attire, if, (except for a reasonable cause) they publicly wear clothing of this kind, or publicly display a woolen cap or hood upon their head, shall, in the case of those holding benefices, be suspended from the enjoyment of the fruits of their benefices for a year. The others, namely, priests and religious, shall, for the same time, be rendered incapable of obtaining any ecclesiastical benefice. But both these and all other clerics who wear a cope or stole that reaches to the ankle and is so short that

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the clothing beneath is clearly visible, shall be obliged to give the cope or stole within one month to the poor; those religious who do not have administration of goods shall be obliged to assign it within the same time to their Superiors, to be used for pious purposes. Otherwise, those holding benefices shall incur the aforementioned penalty of suspension, and the others the penalty of incapacity, for the same time. " To this we add the following sanction: "Clerics, especially those holding benefices, shall not publicly wear shoes with buckles, red shoes, or green shoes." The Council of Trent, in the aforementioned session, chapter 6, concerning reforms, states: "Because clothing does not make a monk, it is necessary that clerics always wear clothing appropriate to their order, so that through the outward decency of their attire they may demonstrate the inner honesty of their morals. But so great has the recklessness of some and the contempt for religion grown today, that, caring little for the proper dignity and honor of the clerical state, they even publicly wear lay clothing, placing one foot in the sacred and the other in the profane: therefore, all ecclesiastical persons, whatever their exemption, who have not worn the proper clerical attire, appropriate to their order and dignity, and in accordance with the ordination and mandate of their Bishop, shall be subject to suspension from the orders and office, and from the benefice and the fruits, revenues, and emoluments of such benefices, and, if they have been corrected once and then offend again in this matter, they may also be subject to deprivation, according to the constitution of Clement V, promulgated in the Council of Vienne, which begins, "Because, in order to renew and expand..." Subsequently, the Constitution of Sixtus V, which begins "Since We have observed," dated January 9, 1589, follows with the following text: "§ 1. Whereas, We have observed that..."

[*Latin ed. p. 396*]

396 APPENDIX XL. There are those who are called, and from them the name Clerics is derived, not only in sacred matters, but also those who, by ecclesiastical census, are enrolled in other lesser Orders, and who must be distinguished from the common people by some particular sign, and by the clerical tonsure alone, so that it may not be said to anyone concerning their signs, and even concerning the ecclesiastical benefices, whether simple or otherwise, which they now possess or will possess in due time, and in which or for which they have a right, that they have obtained them unjustly, lest even pensions, whether derived from any fruits, revenues, or profits of patriarchal, primatial, metropolitan, cathedral, and other churches or abbeys, capitularies and conventual churches, mensalties, or monasteries, prebends, colleges, hospitals, canonical offices, rectories, priors, prebendaries, persons, administrations, offices, and benefices of any kind ecclesiastical, secular, or of any regular Order, or their daily distributions, and rights, emoluments, and provisions of all kinds, are unjustly withheld from

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them; yet, with the injury of times, and perhaps of sleeping pastors, an envious man may have sown poisonous tares among them.

§ 2. Therefore, for these and other reasonable causes, so that no Clergyman, whether pastor or otherwise, may, through excessive indulgence and impunity, or through some offense, disgracefully abuse the sacred vessels of God, either in the Roman Curia or outside of it, wherever in the nations and places they may be, we command and order that all and each of them, whatever their exemption may be, and whatever their condition, must, according to the habit prescribed for those who are to be distinguished by the clerical character, and according to their age and other qualities, observe the prescribed manner, and that penalties are imposed on Clerics who do not appear in clerical habit and with the tonsure; lest they be deprived of the immunities and other clerical privileges to which they ought to be entitled; yet, even if they receive pensions, whether derived from any concessions or dispensations granted by the Apostolic See, or from ecclesiastical goods assigned to them in lieu of a pension, or from any other source, it may be said that they have unjustly obtained them.

Furthermore, in order that no Clergyman, whether married or not, may, contrary to the pious memory of our predecessor, Pope Boniface VIII, in the Tridentine Council, abuse the privileges of the clergy, especially those residing in the Roman Curia, as well as those outside of it, wherever in the nations and places they may be, we command and order that all and each of them,

[*Latin ed. p. 397*]

IX. Those who, by some privilege or immunity, or by any other means obtained for a time, are exempt from all obligations, and who, with any delay or postponement, owe anything to those present in the City, or who have reserved or are holding ecclesiastical goods, benefices, or fruits, in any way whatsoever, shall, within fifteen days, those who are beyond the mountains, within four months, and those who are beyond the mountains, finally established, within eight months from the day of publication of these letters in the City of Rome, be deprived of all such privileges, in the fullness of the power of the Roman Curia, and we declare them, without any other warning, citation, decree of the Apostolic judge, or ministry, to be deprived; and we declare that the benefices, pensions, or other ecclesiastical goods reserved in this manner, are thereby vacated and may freely be conferred upon others, and that any excuses offered, or any other reasons given, shall not be admitted, and that the pensions, or other things granted, are extinguished and shall be so considered; and we decree that no further reservations of fruits or other things shall be made. In the future, we decree that no cleric shall be subject to any ecclesiastical censures or penalties, or any other ecclesiastical penalties, even the simplest, for not wearing the clerical habit and tonsure, or for not being in military service,

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or for not paying, and that those who are not clerics in the clerical habit and tonsure, and those who are not in military service, shall not be subject to any military service, and that for not paying, they shall not incur any censures or penalties; and we decree that the dignities, prebends, administrations, offices, and canonries, and benefices, even the simplest, shall be conferred or assigned to those who are deserving, or that pensions, fruits, or ecclesiastical goods shall be reserved for them.

§. 3. Otherwise, we reserve perpetually for the present Pope, and for any future Pope, those very persons and their heirs, who, with regard to wearing the clerical and military habit mentioned above, are exempt by the lapse of time, as stated above, and we decree that, as stated above, all and each of those who, in any way, have not obeyed, or will not obey, the precepts and mandates set forth in these documents, both now and in the future, to all the judges and commissioners, even the perpetual Auditors of the Apostolic Palace and the Cardinals of the Holy Roman Church, shall be judged and interpreted, and shall be declared, in any cause or instance, by any other authority, to be null and void; and any act, deed, or thing whatsoever, done by anyone to the contrary, shall be of no effect.

[*Latin ed. p. 398*]

398 APPENDIX XI. sometimes, or unknowingly, it may happen that attention is drawn to it. The severity of this Constitution was somewhat tempered by the same Pontiff, with regard to Clerics who enjoyed ecclesiastical pensions, through the following Constitution, which begins with "Pastoralis" on January 31, 1589, that is, in the same month and year, of which the following is a part:

"§. 1. Some of the aforementioned Clerics, receiving very small pensions or benefits of this kind, and others who are our family members and actively serve us, engaged in various duties and services, who, in turn, are required to travel and be present wherever needed, can scarcely, without great inconvenience, impediment, and expense, wear the aforementioned clerical habit.

"§. 2. Wishing to provide for their needs appropriately and to favor them with special grace, we grant, by the authority of these presents, a special dispensation to all Clerics, both in the Roman Curia and outside of it, wherever they may be established in nations and places, who receive or will receive in the future pensions, benefits, or properties or ecclesiastical goods, reserved and granted to them in one or more instances, the sum or annual value of which does not exceed or exceed sixty gold ducats from the Camera [Papal Treasury].

"§. 3. Furthermore, to our family members who actively serve us in certain lower ministries, such as those commonly called footmen or *parafrénarii*, table-setters or *credentiarii*, or dispensers, and others engaged in similar services, and to those who will serve in the future, as well as to

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any of our intimate family members who actively serve us in our Apostolic Palace, with continuous monthly payments, present and future, who now receive or will receive in the future pensions or benefits or ecclesiastical goods in lieu of pensions, up to any sum and value, so that neither they nor any of them may be prevented from wearing the clerical habit and tonsure, but may freely and lawfully use the lay habit, in order that they may more promptly and efficiently perform their duties, and shall not be subject to the penalties imposed in the aforementioned Constitution, by the authority of the Holy See, by the tenor of these presents, we grant and concede a special grace (1).

(1) Sixtus V, as history recounts, was formidable in his Constitutions and in their execution; and likewise, a formidable avenger of justice. I believe I see an indication of this justice in the present Constitution. For he was compelled to moderate the first Constitution with regard to those ministers attached to the Apostolic Palace: but so that this exception, although most just, might not seem offensive to others, the privilege was easily extended to all Clerics throughout the world who enjoy an ecclesiastical pension that does not exceed sixty ducats annually from the Camera, as stated in §. 2.

[*Latin ed. p. 399*]

X xi. The Constitution of Benedict XIII follows, which begins with the governance of the Catholic Church, issued on the sixth day before the Kalends of May in the year 1725, with the following text: "Concerning the governance of the Catholic Church, We deem it necessary, through the ineffable abundance of divine goodness, without any merit of Our own, that those who are appointed to preside over it, especially those dedicated to the vigilance of the Apostolic See, so that those who have been called to the service of the Lord, and who have given themselves the name of the Church Militant, may everywhere be found irreproachable. Indeed, it is fitting that they should arrange their lives and manners in such a way that in all things, whether in dress, gesture, gait, or other matters, they should exhibit nothing but gravity, moderation, and piety. Therefore, We decree that all clerics, and especially those holding ecclesiastical benefices, must wear honest and appropriate garments, always befitting their order, so that through the outward decency of their attire, they may demonstrate the inward honesty of their character; and if they do otherwise, they are to be subject to the penalty of deprivation of their benefices, as has been prudently provided for by the Decrees of the Holy Council of Trent, and by the sanctions of many of Our Predecessors, the Roman Pontiffs. Now, it has come to Our attention, with the greatest sorrow, indeed, with horror, that the audacity and recklessness of some clerics holding ecclesiastical benefices has reached such a point today that they do not fear to proceed in a manner that brings disgrace to the clerical order, contempt for the sacred canons, and the ruin of their own souls, by appearing in lay attire; We,

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desiring to consult suitably, as is Our duty in the pastoral office, concerning this grave abuse and offense to the Christian faithful, and to the extent that it is permitted to Us from above, and with the counsel of some of Our Venerable Brothers, Cardinals of the Holy Roman Church, and also of a number of esteemed sons of the Roman Curia, whom We have especially appointed for this purpose, and also through Our own certain knowledge and mature deliberation, and with the fullness of Apostolic power, We decree, establish, and command by this Our Constitution, which shall remain in force perpetually, that the Ordinaries of the places where such clerics, abandoning their lay attire, are located, shall completely restrain them by canonical remedies, and for this purpose, they shall not only be able, but must proceed against them by means of citations served at their homes, provided that they have a domicile in their respective dioceses; but if not, by means of citations to appear before the court, and otherwise observing the order of law, they shall pronounce a declaratory sentence of deprivation of the benefices against them, but in such a way that the same benefices shall, according to the blessed Constitution of Sixtus V, Our Predecessor, beginning with the words: 'Concerning the Most Holy,' be reserved for the collation, provision, and all manner of disposition of the reigning Roman Pontiff, and be considered as reserved."

[*Latin ed. p. 400*]

400 APPENDIX X l. "Furthermore, We wish, We decree, and We declare that the aforementioned Clerics, holding benefices while in lay habit, are in no way permitted to receive, nor to enjoy, any fruits or revenues whatsoever of their benefices, of any kind, species, quality, or value; and We expressly decree and ordain that such benefices, solely by the fact of being held in lay habit, even without any prior declaration by the Ordinary depriving them of the benefices they hold, indeed even if no citation, warning, or other judicial act has been instituted against them, are, by the very law, subject to the penalty of loss and deprivation of the aforementioned fruits, and that they may in no way receive them, nor retain what they have received, nor enjoy them; but that they are obligated to restore them immediately, without any diminution whatsoever, for the benefit of the ecclesiastical institutions in which the benefices are established; from this obligation of restitution, We wish, We command, and We decree that no one, except Ourselves and the Roman Pontiff for the time being (having all other things, even the office of the Penitentiary Apostolic and the power of granting greater indulgences, removed), may absolve or release them. " We decree that these present letters, and all that is contained therein, shall always exist and be effective, and shall have their full and complete effect, etc., followed by the most extensive clauses of confirmation and derogation. As for the privileges of Clerics who are not initiated into the sacred Orders; that is, the privilege of the forum, the canon, and other minor privileges

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that belong to them, as We have already given to Our Readers the Decree of the reigning Supreme Pontiff, in which He declared: "A Cleric who has been instituted in the sacred Orders, whether celibate or joined in marriage, if, with regard to those things which the sacred Council of Trent, session 23, chapter 6, on Reform, has established, he has not diligently observed, loses the privilege of the forum, and is to be considered deprived of it, and by the very law and by the very fact of being deprived, he is deprived of all the privileges of Clerics, so that he must be treated as a mere lay person, even in criminal cases and for penal purposes; and that, now and henceforth, a triple warning or declaration is necessary to inform him that he has incurred this penalty." You see this Decree, which I have quoted in Italian in Volume III, page 435, and also the appendix attached in the same Volume, page 45.

[*Latin ed. p. 401*]

401 IX. CONGREGATIONE CONCILII. CONCERNING THE INCOMPATIBILITY OF BENEFICES RELATING TO ABSOLUTION AND DISPENSATION. January 23, 1864, and September 24, 1864. The full examination of this case was delayed, but the case was no longer presented. Summary of the facts. An ancient cathedral church exists in the city of Italica, whose Chapter has, from ancient times, had seven parishes subject to it, two urban and five rural, which were formerly administered by the Canons themselves; then, later, by vicars. Regarding the urban churches, one is the cathedral church itself, and the other is the church of St. John, which is also a baptistery. The priest Anthony was appointed by the Chapter as a vicar to administer the baptistery of St. John in the year 1865, and in the year 1857 he obtained a canonical prebend in that cathedral church, and nevertheless fulfilled both duties. However, when the cathedral parish became vacant in the year 1863, the Chapter proposed Anthony himself as a candidate to be appointed as administrator of this vacant parish, leaving the parish of St. John. The Chapter considered this to be a fitting reward for Anthony's labors, so that he would not be distracted from his choral duties to a greater extent in order to fulfill the duties of an external parish. However, the Bishop, who otherwise would not have rejected the wishes of the Chapter, doubted the compatibility of these offices; therefore, he advised Anthony to appeal to the Holy See for a remedy and absolution regarding the previous union of the parish of St. John with the canonry, considering good faith, and for a dispensation regarding the future, so that, together with the canonical prebend, he might administer the cathedral parish. This was done by Anthony, as evidenced by the supplicating letter to the Sacred Congregation, volume

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IV, section XLIV, 26.

[*Latin ed. p. 402*]

402 ON THE INCOMPATIBILITY OF BENEFICES. Such petitions, concerning the matter, were submitted to the Bishop for information and his opinion, so that, after hearing the Chapter, he might report on the annual revenues and burdens, both of the canonry and of the parish, including the uncertainties of both positions, and on the asserted assets of the Oratorian, and finally, on the true necessity of the dispensation. The Bishop, diligently following the mandates, proceeded. But the Chapter entirely denied the incompatibility of the aforementioned offices, and therefore, the necessity of a remedy regarding the past and a dispensation regarding the future. This question, which seemed to be of no importance, opened the way to numerous questions, in which our readers would also find, almost without exception, the ancient and common discipline of the Church, which prevailed especially in Italy at that time. ON THE DIOCESAN JURISDICTION. WHAT THE CHAPTER ALLEGED. — Since the Chapter, having placed the compatibility in doubt, considered its rights to be violated, it endeavored to demonstrate the ancient history of those rights, showing that the parishes were subject to the Chapter, both in temporal and spiritual matters; that it was the true parson of those parishes, which it administered through its appointed officials or removable vicars; and that the office of a simple removable vicar was, by law, incompatible with an ecclesiastical benefice. Therefore, it recalled that the cathedral church in that city (as historians frequently report was the case in other cities until the 10th century) had the entire care of souls entrusted to the cathedral Chapter, until, in the year 1229, it was divided into several parishes within the city, and the cathedral itself remained the most prominent part, which the canons administered both by themselves and through others until the year 1527. It was then that a certain Prefect, Charles, first appointed a chaplain to the care of souls, and the distinction between actual and habitual care began, as it is established by a solemn document. Regarding the parish of St. John, it stated that the city of N. had been rebuilt in the 10th century near a certain mountain, and that the cathedral and a new temple had been built under the title of St. Mary, and that the Bishop, Theobald, in the year 1043, among other churches, had given the people of St. John in the suburbs of the city with their parish: this parish already had a baptismal font.

[*Latin ed. p. 403*]

ON ABSOLUTION AND DISPENSATIONS. 403. The property, which was richly endowed, had become part of the cathedral baptistery. This donation had been confirmed by another Bishop in the year 1192, and also by the Supreme Pontiffs Innocent II in the year 1137, Celestine II in the year 1143, Alexander III in the year 1178, Lucius III in the year 1181, and finally

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by Gregory X in the year 1229. From this, the Chapter inferred that the parish of St. John had been annexed to the cathedral church in precisely the same way as any other benefice is truly united; for it demonstrated that ancient donations of this kind brought with them a true and perfect canonical union, as taught by other authorities, such as St. Rota in Decrees, 192, no. 5, tome 7, recent. And the Chapter confirmed this with the very words of Gregory X, who, while confirming the rights of the cathedral over the subject churches, carefully distinguished between the churches which were canonically possessed, among which he included the parish of St. John in the city, free from any right of patronage, which (the Pope said) you have in the church of St. Catherine, etc. Indeed, this union, it was argued, had extended not only in temporal matters but also in spiritual and parochial rights, considering both the aforementioned Bishop Theobald, who donated the parish of St. John to the cathedral along with its entire parish, and the aforementioned Bulls of the Popes, which consistently spoke of cathedral churches granted with all their rights and appurtenances; these general terms, (the Rota said in its decisions, 221, before Crescentius), "however, imply a union not only in temporal matters but also in spiritual matters." And according to the words of decision 49, page 15, recent, "they include the care of souls, parochial rights, and all other things pertaining to the united church, by right or custom, and it implies that the union has been made accessory even in spiritual matters"; under these words comes also the right to appoint a vicar, who is known to be removable. Moreover, the Chapter added that Celestine II had clearly referred to spiritual rights when he forbade anyone from building a church within the ancient boundaries of the baptistery of St. John without the consent of the Chapter, or from seeking burial in other places, or from demanding tithes and offerings: these temporal matters, it was conceded, had been granted to the Chapter because of the spiritual care of souls, or, as the praised Pope said, according to the Apostle, "that you may reap what you have sown in spiritual things, no one hindering you."

[*Latin ed. p. 404*]

404 ON THE INCOMPATIBILITY OF BENEFICES. The Chapter maintained that this should be understood according to a decree from Pope Nicholas III, in which, concerning churches granted to the Chapter, it is clearly stated that they are immediately subject to it, or pertain to the Cathedral with full rights. Furthermore, the Rota, in a select decision cited by Monabell, decree 4, number 6, affirmed that "full rights" encompass all spiritual and temporal rights. Therefore, in order that the Canons (who at that time were living a common, regular life) would not abandon the cloister, the same Pope, in the aforementioned decree, stipulated that the Chapter should appoint vicars in the churches and cathedral benefices subject to it, and that these vicars should be assigned a suitable portion of the

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fruits of the benefices, so that they might be able to support themselves and bear their burdens. Through this reform introduced by Nicholas III, it was demonstrated, the Chapter concluded, that the care of souls had been fully and continuously entrusted to the Chapter, with the exercise of that care being entrusted only to the vicars. However, the Chapter added, that all these rights, which the then regular canons held, were transferred to secular canons by the Bull of secularization issued by Leo X, and that these rights remained intact even after the Council of Trent. The Chapter demonstrated this by the fact that these parishes had never been granted to them through a concordat, nor through the issuance of bulls, nor through formal possession, but rather through a simple appointment made by the Chapter. Therefore, the Congregation of Spoils (1) never interfered with the administration of vacant goods that were registered to the Chapter, nor was anyone able to claim these parishes for themselves without the consent of the Chapter. Furthermore, the Chapter demonstrated that these vicars were removable at the Chapter's discretion, which could be easily inferred from numerous documents and facts. With this understanding of the nature of vicars, it was considered necessary to conclude that: 1° regarding parishes subject to the Cathedral, the care of souls resided with the Chapter; the exercise of that care being entrusted to the vicars; 2° these same parishes had lost the nature of a benefice and could not be conferred as such, since they consisted of a simple stipend; 3° they were never vacant, and therefore should not be conferred through a concordat or through canonical institution, but rather through the nomination of the Rector principal and the approval of the Bishop after a simple examination of suitability, as Engel wrote in *Manual Parochiale*, page 2, chapter 4: "Viol." (1) Regarding the matter of the "Camera Spoliorum," see Volume III, pages 145 and 238 and following.

[*Latin ed. p. 405*]

ON ABSOLUTION AND DISPENSATIONS. 405. "Vicars are those who are subject to the will of the prelates or rectors, and are removed and appointed at their discretion; hence, vicars are called removable at the will of their superiors. This is granted with the full union of benefits, both spiritual and temporal, where the bishop does not have an institution or investiture, but only a supreme authorization or approval regarding the care of souls, according to the Council of Trent, Session 2, chapter 15, and Session 25, De Regulis, chapter 1. Unless this very approval pertains to inferior prelates, as stated by Panormus in the chapter 'Cum non liceat de praescriptione.' Barbos, De Officio Epis., page 3, paragraph 72, number 185, and paragraph 127." From these passages, Pignatelli, volume 10, consultation 141, concluded: "Since the care is united to the college, it is said to be held by the chapter and exercised by the vicar; therefore, it does not imply that the canons themselves cannot exercise the care." Omitting the general rule, that

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if something is not found in the law, it should be considered permitted, I. 1, ff. de iesi., it is certain that the college, to which the care is united, can appoint suitable persons at its discretion, and indeed even the canons themselves. Because the college is considered the prelate of individuals, and can appoint whomever it wishes, and can change them, and those persons are not said to have the care of souls, but the chapter itself, as stated by Innocent in the chapter 'Cum non ignoret,' number 2. And it is also clearly stated that the care can be entrusted to one of the members of the college to which it is united, as stated by the Abbot in the aforementioned chapter, number 6: 'It can entrust the contentious and penitential jurisdiction.' Furthermore, he argued that the aforementioned Bull of Nicholas III did not obstruct, since in it, the administration of parishes located outside the city was prohibited only to regular canons, in order to curb their absence from the cloister; and since it is known that, after the prescription of Nicholas, the parishes of the Cathedral and of St. John were administered by canons; but that Leo X transferred the rights and privileges of the regular canons to a secular chapter, and furthermore granted to it the rights of the churches and of the secular canons; therefore, he concluded that the prohibition made to the ancient canons did not apply to them. But he also argued that the very reason for incompatibility in the present matter is far removed: since incompatibility arises from...

[*Latin ed. p. 406*]

4Q6 ON THE INCOMPATIBILITY OF BENEFICES: Concerning the incompatibility of two benefices, or a benefice and a perpetual office, according to the text in chapter i concerning canons 6: in the present case, these parishes are neither benefices, since they were subjectively united to the cathedral, nor perpetual offices, since they were removable at the will of others: moreover, they were often granted in commendam, which is a mere temporary benefice, which confers neither title nor incompatibility, Pirhing, book 3, title 5, section 4, number 1. Therefore, Anthony was denied permission to administer the parish of St. John, and a dispensation to administer a parish united to the cathedral. However, since Anthony could be excused from his choral duties, it was the wish of the same Chapter that he himself obtain an indulgence to be absent from the choir for the sake of the care of souls.

RIGHTS DEDUCTED BY THE BISHOP. In opposition, the Bishop argued that the occasion for doubting the incompatibility in this case had arisen first from the Chapter itself, which, upon the death of the predecessor, the Cathedral Parochial Vicar, had urged that Anthony be appointed to it as a commendatory official, because it considered that it could be appointed him as a parish priest. He then presented the testimony of the predecessor Bishop, who, having been questioned by the Holy Congregation for information regarding the prayers of another canon and the parochial

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vicar of St. John for exemption from certain duties in the year 1847, reported: "Neither in ancient nor in more recent cathedral constitutions is there a case in which a canon from the same cathedral should administer parishes, or the cathedral itself, or the baptismally united parish of St. John, since in those same constitutions it is stipulated that they should be governed by a vicar." This testimony, indeed, is to be held in high regard, since the same predecessor Bishop had long been a canon and prebendary in the same Chapter, and was deeply knowledgeable about the affairs of the Chapter. Finally, he observed that the Chapter had no reason to be exempt from the universal law of Trent, in session 24, chapter 17, in which these things were established: "Since the ecclesiastical order is perverted when one cleric occupies multiple offices, the holy canons have decreed that no one should be enrolled in two churches; but since many, influenced by dishonest desires, and not by God, are not ashamed to circumvent what is well established and to obtain multiple benefices at the same time, the holy synod..."

[*Latin ed. p. 407*]

CONCERNING ABSOLUTION AND DISPENSATIONS. 407 Desiring to restore the proper discipline in governing ecclesiastical institutions, the present Decree, which is to be observed by all persons, whatever their title, even if they hold the honor of the Cardinalate, establishes that in the future, only one ecclesiastical benefice shall be conferred upon each individual. This benefice, if it is not sufficient to provide an honorable livelihood for the person to whom it is conferred, may nevertheless be supplemented by another simple benefice, provided that both do not require personal residence; and this applies not only to cathedral churches, but also to all other benefices, whether secular or regular, even those that are commendatory, of whatever title and quality they may be. Those who currently hold more than one parish church, or one cathedral and another parish church, are obliged to relinquish all but one parish church, or the cathedral alone, within six months, regardless of any dispensations or unions granted for life. Otherwise, both the parish churches and all other benefices they hold shall be deemed vacant by law, and shall be freely conferred upon others who are suitable, and those who previously held them shall not, with a safe conscience, retain the fruits after that time. Furthermore, the Bishop inquired whether the parishes that were said to be united to the Chapter had been united only with regard to the administration of temporal goods, and that this could be deduced from contracts initiated by the Chapter, disputes held, and other similar matters. Regarding the removability of vicars, he inquired whether, by the term "vicars," were meant, according to the common law, vicars who were regularly appointed; that the only instance of presentation concerning the parish of St. John that could be found after the constitution of Nicholas, that is, in the year 1647, spoke

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of a vicar without any indication of removability; that it was regrettable that the records of the Curia had been lost in a fire, so that other ancient documents relating to the matter could not be obtained. Nevertheless, he maintained that this observation demonstrated the removability, firstly because all vicars (with the exception of one or two who had been removed for just cause and at the suggestion of the Bishop) had died while exercising their pastoral duties; secondly, because, in the case of vacancies in parishes, it was customary for an economist to be appointed by the Bishop according to the laws of Trent. Therefore, he did not consider it necessary to take into account eight or ten more recent presentations of vicars, which were said to be recorded in the acts of the chancery.

[*Latin ed. p. 408*]

408 THE INCOMPATIBILITY OF BENEFICES, which are removable at the will of another, since, in the letters of the Chapter, vicars are, for the most part, simply dismissed. Furthermore, it is not better that the Chapter should claim parochial rights for itself through a Bull of Leo X, derived from the Regular Canons; since those rights had already been removed by Nicholas III. But even if this objection were overlooked, and those rights remained intact in the Regulars; it does not follow that they should pass to secular persons, because the nature of a Regular college is different from that of a secular college. For the Regulars are also subject to their own proper Superior, from whom they depend, who can grant and withdraw the exercise of the parish at his pleasure, and who is therefore said to properly hold the care of souls. But the Prefect of a secular Chapter, who does not have such jurisdiction, would wrongly claim the fullness of those rights which belong to the Regulars by a special reason. Therefore, he concluded, the right of the Chapter in the parishes under discussion is a mere right of presentation, that is, the right of patronage, which should be considered anomalous because of the abuses committed by the Chapter in its exercise; and therefore, there is undoubtedly an incompatibility between the parishes of St. John and the Cathedral, because each of those benefices requires personal residence. Furthermore, the Bishop spoke of the negligence of the Chapter in appointing vicars to vacant parishes, implying that only eight days were granted for that nomination, according to Gagliardi in Barbosa de offic. Par. app. 2 in fin. n. 5, where a certain Resolution of the Sacred Congregation of Bishops and Regulars is indicated, as well as Gallemart in declar. ad cap. 7 sess. 7 Conc. Trid. and Bellarmine on that chapter. With these and other things explained, the proposed questions are to be resolved: "Whether and how does the incompatibility of a Canonry exist" in the case: "And to what extent, affirmatively." II. "Whether and how should the Most Holy [See] be consulted" for absolution and healing

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with regard to the past, and for dispensation with regard to the future.

[*Latin ed. p. 409*]

ON ABSOLUTION AND DISPENSATIONS. 409 III. "Whether and how it is established that vicars are removable in this case. IV. "Whether and within what time the Chapter is obliged to nominate for parishes, and how the devolution of the office takes place. The Holy Congregation, on January 23, 1864, after considering the case, postponed its judgment and issued the following response: "Let the coadjutors provide further evidence regarding points 1 and 3." PROCEEDINGS. The Bishop submitted a new and copious exposition of facts to the Holy Congregation. But just as the initial simple petition provided an opportunity for doubt, so the four formulas for questioning, and the new account of facts, raised other questions, so that the case seemed gradually to grow in volume without any apparent reason. Therefore, the substance of the facts narrated by the Bishop is as follows: He stated that, as before, the Chapter was of the opinion that Anthony, as a Canon, could not exercise the care of souls in that cathedral without an Apostolic dispensation; and that his opinion was based on the Bull of Nicholas III, dated January 2, 1278, in which that Pope forbade Canons from exercising parochial offices in churches that depended on them, and ordered that vicars be appointed in those parishes, with the same remuneration, so that they could be conveniently maintained and bear other burdens. Since this arrangement was general, encompassing all parishes, whether urban or rural, it followed that Canons were prohibited from exercising parochial duties, and that these vicars were to be considered permanent, not temporary. He confirmed this with the following observations: 1° That it was established from records in the Chancery (especially from the oldest act of nomination, which was found after the burned archives, that is, in the year 1647) that vicars had been established without any mention of removability; 2° That it had been the case that, since the time of the aforementioned Bull of Nicholas, the Canons had never exercised parochial offices in those parishes; 3° That this Bull had never been revoked; Pope Leo X, indeed, confirmed by a Bull of secularization all the privileges that had been granted to the secular Canons; but this was to be understood of privileges that were...

[*Latin ed. p. 410*]

410 THE INCOMPATIBILITY OF BENEFITS: They possessed these benefits; but, moreover, they no longer held, by Canon Law, the privilege of exercising, by themselves, the parochial office (1), which had been granted to them by Nicholas; 4° that if it were conceded that the Canons could exercise the parochial office in the urban church, the same right could not be denied to them in rural parishes; and therefore, the same inconveniences would arise, which the Bull of Nicholas prohibiting this had caused; 5°

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from the confession of the Canons themselves, who, when, in the year 1846, a certain Canon exercised the care of souls in the same cathedral, and requested an exemption from choral duties from the Holy See, declared that the exercise of the care of souls had always been extraneous to the Chapter, since neither obligation nor custom had ever existed that a member of the Chapter should undertake such an office; and this had also been testified by the preceding Bishop, as stated above. Furthermore, the Bishop endeavored to show that these vicars should be considered permanent, and not temporary; and this especially, because it had been established in both ancient and recent constitutions of the Chapter that, during the Bishop's absence, he should nominate and appoint an administrator, before the Chapter nominated a vicar; which, as could be seen from the records of the Chancery, was the case with almost all the permanent vicars, who had died in the parish to which the Chapter had appointed them; that many of the vicars had been appointed directly by the Bishops, without any presentation by the Chapter, and had remained so until their death; that some of these vicars had accepted the care of souls under the title of sacred patrimony, without the consent of the Chapter; and finally, that there was no example of the Chapter having removed any vicar. Moreover, the Bishop considered it opportune, in order to prevent this contentious question from being prolonged, to declare that these vicariates were permanent; which, although he believed he could do so by his own right, according to the Council of Trent, nevertheless, because of the circumstances...

(1) He who wrote this account perhaps did not notice a mistake in this matter: for he supposed that the Canons had the privilege of exercising the care of souls before Nicholas' prohibition; whereas, on the contrary, considering the discipline of that time, it was the proper office of the Canons to exercise the care of souls in parishes united to the Chapter with full right, and these were united for this reason, so that the Chapter, through its Canons, or at least through others, would be responsible for the care of souls.

[*Latin ed. p. 411*]

ON ABSOLUTION AND DISPENSATIONS. 4-11. It seemed more fitting to the Sacred Congregation to expedite this matter, and they judged that it should be decided by the Sacred Congregation itself. Indeed, the Council of Trent, in Session 1, chapter 7, concerning Reforms, decreed: "The benefices endowed, which are found united and annexed to Cathedrals, Collegiate churches, etc., shall be visited annually by the Ordinaries of the places, who shall diligently see to it that, through suitable vicars, even perpetual ones, unless it appears to the Ordinaries themselves that it is more expedient for the good governance of the churches to do otherwise, the care of souls is laudably exercised by them, along with a portion of one-third of the fruits, or a greater or lesser portion at the discretion of the Ordinaries themselves,

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even a fixed sum being assigned, as is fitting; and that appeals, privileges, exemptions, etc., do not suffice for this."

However, several authors added that the Ordinaries of the places should strive to put into effect, for the better governance of souls, what the Council has decreed on this matter, as, among other things, Barbosa, in his commentary on the Council of Trent, Session 7, chapter 7, number 1, and Cardinal de Luca, in his notes on the Council, discourse 9, and Fagnanus, in chapter "On the Office of the Vicar," numbers 2 and following, state, citing the reasons by which the Bishop was moved in this matter. And it cannot be asserted to the contrary that there is a custom, even one that is very ancient, that would impede this power of the Ordinary, as Bellarmine wrote in the declarations of the Sacred Congregation, collected by him for the Council of Trent, chapter 7, session 7: "The ancient custom is abolished, according to which a removable vicar serves in a united benefice, unless the Bishop wills otherwise," and Barbosa, in the aforementioned place, number 3, wrote: "By this decree (chapter 7), the ancient custom is abolished." Indeed, whenever it was a question of parochial benefices, the Sacred Congregation has decreed that the custom should be entirely set aside, and that perpetual vicars should be appointed. He testified that he was led to make or request this declaration because of abuses and inconveniences. And as for the abuses he observed, the smallest stipend that the Chapter paid to the vicars was the cause of this inconvenience, so that it was difficult to find canons who would accept the office of vicar, and even when they were found, they did not administer the parish with the care and devotion that was appropriate; the canons were negligent in appointing vicars, even though they claimed that they had never lost the right to appoint them; they were negligent in restoring the parochial buildings and sacred furnishings.

[*Latin ed. p. 412*]

412 OF THE INCOMPATIBILITY OF BENEFITS concerning the execution of the Decrees of Holy Visitation, and concerning the perpetual maintenance at their own expense of the Most Holy Sacrament. He stated that such abuses would cease if the vicars were declared perpetual, and he described the benefits that would result for both the parishes and the diocese: because there would be lacking the ecclesiastical benefits to be conferred upon the clergy by virtue of their Holy Orders. And if such a declaration of perpetuity were made, a greater compensation would also need to be determined. To demonstrate the inadequacy of the aforementioned portion, the Bishop presented many documents and the complaints of several vicars, in which it was stated that the stipend assigned by the Chapter was no longer sufficient, whereas, on the contrary, according to the Bull of Nicholas III, the Chapter was obligated to provide such a portion, from which they could conveniently maintain themselves and support the other burdens incumbent upon them. The Bishop testified that the Parochial Vicar of the

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Cathedral received from the Chapter a stipend of 80 scudi, in addition to 20 scudi for the burden of singing the conventual Mass, of which more will be said below; furthermore, 10 scudi from uncertain offerings. The Parochial Vicar of St. John received 60 scudi, in addition to 30 scudi from uncertain offerings, derived primarily from baptismal certificates; these offerings, however, had ceased, because the Government had taken over the baptismal records. With these revenues being so meager, and considering also the poverty of the poor, many of whom were in these parishes, the Bishop concluded that the Chapter was obligated, according to the aforementioned Bull, to provide these vicars with the means necessary for the divine cult and the temples, and that whatever remained could only be retained by the Chapter itself, since the Chapter had long ago appropriated the goods of the parishes. This, however, is a suitable assignment or increase, according to the circumstances of time, place, and persons, and is within the full power of the Bishop, as stated in chapter 7 of the Council of Trent, and according to the Constitution of Benedict XIV. Furthermore, all that has been said regarding this matter is subject to the derogatory Constitution of St. Pius V, concerning the execution thereof (1).

(1) Benedict XIV, in the aforementioned Constitution, states: "§. 10 And finally, concerning those who, whether as vicars perpetual or temporary, administer the care of souls in churches that were formerly united with others by reason of some parochial church... although a certain portion of the fruits of such churches was previously assigned to these vicars, as is clearly stated in the Constitution beginning: Ad assequendum, dated Kal. Nov. in the year 1567, nevertheless, where the prescribed portion of fruits..."

[*Latin ed. p. 413*]

ON ABSOLUTION AND DISPENSATIONS. 4l 3 Although the canonical prebend had been established at 60 scudi, it is said to have increased to at least 150 scudi, and in the present time to 200 scudi. Therefore, with a slight reduction for each canon, the vicars could have hoped for a sufficient amount; however, Pope Pius V prescribed to the bishops that they assign to the vicars a portion not less than 50 scudi, nor more than 100 scudi; yet, in the present age, such a portion is no longer sufficient, and much less for a comfortable life and for bearing the burdens of other obligations. However, the bishop did not deny that, for various reasons, the chapter had sometimes granted certain extraordinary emoluments to the vicars. Furthermore, he noted that the burden of singing the conventual Mass each day on weekdays had been imposed on the cathedral vicar, although he was entirely outside the chapter and the choral offices; this burden, imposed abusively on that vicar many years ago, was the cause why, at times, parochial or choral duties were neglected, and serious inconveniences resulted. Having explained all these matters in detail and corrob-

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orated them with various authorities, the bishop inquired whether, while maintaining the first four formulas of doubt, four others should be added, which we place at the end. NOTE CONCERNING WHAT THE CHAPTER DEDUCED. The chapter, in turn, presenting new arguments, confirmed what it had previously deduced: it brought forward two old opinions of jurists (one of whom was Salvator Quarantotto), given in 1588, who had been asked by the chapter whether, after the decrees of the Council of Trent, which were then very recent, the chapter could still remove vicars? They gave an affirmative answer. It recalled that, in no way, or not fully, the assigned portions, according to the times and the aforementioned injunctions, are found to be adequate, or even to provide a proper proportion of the burdens; for this reason, We also deem it sufficient for you, considering your circumstances, that all necessary and opportune faculties for fulfilling the burden of celebrating and explaining the Mass for the people on weekdays, as prescribed, are granted to you, using them with the power that the Council made to the bishops in Trent, session 7, chapter 7, "so that those things which have been established by you will not be of any help to them, if they are not sufficient according to their judgment."

[*Latin ed. p. 414*]

414 Regarding a certain question concerning the incompatibility of benefices, which was raised in the year 1630 by the Provisor of the Chapter and discussed before the Sacred Congregation of the Council against the Chapter itself, due to certain scandals which the Provisor of that time asserted were spreading in the aforementioned vicarages, and who had declared that the vicarages were removable and not subject to visitation by the Canons. The Chapter responded to this accusation, and the Bishop, when asked, confirmed the removability of the vicarages. In this case, however, the Sacred Congregation deemed it proper to respond only by writing to the Bishop, instructing him to provide for what was fitting. The Chapter presented a certain document dated in the year 1692, signed by the episcopal Chancellor, in which it was affirmed that no Bulls had ever been issued for the vicarages, and that they had been removable at the will of the Chapter; it presented confessions made at that time by the vicarages themselves, who stated that they were removable at the will of the Chapter and were exempt from all episcopal jurisdiction; and finally, it presented letters from the Reverend Chamberlain of the Chamber of Spoils to the Subcollector of the diocese in question, dated in the year 1692, in which it was ordered that the inheritance of the vicarages should be collected by the aforementioned Subcollector, and returned to the Chapter, since it was exempt from the right of spoliation. Furthermore, the Chapter demonstrated that the vicars were elected by it and subjected to annual confirmation, and it presented eighteen examples of removal or suspension of confirmation from the chapter acts, the first of which

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dates back to the year 1609, thereby demonstrating not only the ancient removability of the vicarages, but also the full and exclusive jurisdiction of the Chapter over them. For the removal which was then decreed took place in the stead of the Bishop; and at that time, it was sufficient that removable vicars appointed by the Chapter could be removed at the will of the Chapter, but not by the Ordinary, except for a cause for which they would legitimately be permanently removed. Fagnanus, in chapter 6, paragraph 39, concerning the status of monasteries (1).

(1) I have reproduced the complete resolution of the Sacred Congregation, which is mentioned in the cited passage by Fagnanus, in Volume III, page 451. That is, this resolution was given by the Sacred Congregation of the Council in the year 1385 for the Chapter of Civitatensi, which is located in Upper Italy, and which also had many parishes subject to it, in which it exercised jurisdiction according to ancient custom and numerous privileges, administering them through removable vicars. This resolution, which was applied at that time to similar matters, was amended by the Constitution of Benedict XIV, dated November 6, 1744, a portion of which is relevant to the matter and which I have presented in the cited Volume, page 454.

[*Latin ed. p. 415*]

ON ABSOLUTION AND DISPENSATIONS. 415 This is the case in practice; however, in law, the chapter, especially citing from the Bull of Nicholas, demonstrates that rural parishes possess full jurisdiction. Furthermore, it stated that benefices that are united to a particular church or chapter carry with them a full union, both in temporal and spiritual matters. And such a complete and subjective union of the united benefices destroys the nature of the united benefices, rendering them mere manual benefices, from which arises the removability of vicars, as Engel teaches, in *ius can. I. 3 t. 27 n. II*. Reiffenst. *Z. 3 i. 3 n. 8*. Barbosa de *off. Episc, alleg. 72 n. 189 S. C. C. in Ratisbonen*. Regarding the appointment of a vicar, dated July 21, 1713, in *lib. 63 Decretor, p. 311*. Also, Nicholas III, in the same Bull, addressed the Canons to whom we are referring, and their Prior, having indeed ordered that vicars be appointed in united parishes, but having instructed that vicars be instituted through the Prior and the Canons: "In these same churches and benefices, vicars are instituted by you; therefore, there is no doubt that they are removable, whereas, if they were perpetual, they would have to be instituted by the authority of the Bishop, as stated in chapter 12 of *De Praebendis*, chapter 1 of *De Capell. Monachor, in 6*, and Gementin, chapter 1 of *de iur. patr.* (1). Regarding the objection raised concerning the appointment of an economist by the Bishop, the chapter noted that it is not immediately possible to proceed with the appointment of a new vicar upon the death or removal of a vicar, and in the meantime, so that the faithful do not entirely

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lack a pastor, according to the decrees of the Council of Trent, session 24, canon 18, concerning reforms, and the constitutions of Pope Pius V concerning appointments, and of Benedict XIV. It was also stated in more recent chapter constitutions that the Bishop should immediately appoint an economist, who would then immediately relinquish his duties upon the election of a new vicar. And in a similar manner, it refuted or explained the other particular actions taken by the Bishop. Then, it proceeded to demonstrate the compatibility of a canonry with the appointment to the office of vicar in urban parishes, and initially observed: "However, this right of instituting in benefices or in perpetual vicariates, which are equivalent to benefices, may have belonged to others besides the Bishop before the Council of Trent; see the resolution of the Sacred Congregation, which I cited in Vol. page 8, ad VIII. Therefore, the argument presented does not invalidate what the chapter intended."

[*Latin ed. p. 416*]

416 The incompatibility of benefices, as mentioned by Nicholas, should be understood solely in reference to rural parishes, and not to urban ones, since in urban parishes, the reason for the prohibition ceased to exist, which was to prevent the monastic observance from being broken. Although the Chapter presented documents showing that, after the Bull of Nicholas, urban parishes were sometimes administered by one of the Canons, it did not deny that the custom had arisen of appointing vicars outside the Chapter's jurisdiction, even for the administration of urban parishes, a custom which it wished to preserve in the future. However, it stated that the Bull of Nicholas could in no way be objected to as demonstrating canonical incompatibility; for it is one thing to say that a Canonry and a vicariate are incompatible by law, and another to assert that, by virtue of said Bull, the office of a vicar is forbidden to Canons. Furthermore, it stated that the Chapter had not proceeded against the prohibition in the present matter, since Anthony had not administered the parish of St. John as a vicar after having been appointed a Canon, but as an economist; and also that Anthony had requested to be appointed as economist to the cathedral church, because he was found to be more capable than others. Since such an office was nothing other than a temporary exercise of a ministry, it was not necessary either for dispensation or for Apostolic permission; however, the Chapter did not deny that Anthony might be granted permission to fulfill this office in case of the absence of the choir, whenever it was necessary, even though he had previously performed both duties diligently and adequately. As for the negligences with which the Canons were accused of being guilty in making nominations, it stated that the Chapter had repeatedly postponed these nominations due to the lack of priests who were able to perform parochial duties; and that it was the Chapter's custom to choose vicars who would not be easily removed; furthermore, that such nominations had been

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postponed only once under the present Bishop for a period of six months. Thus, the charge of negligence was rejected, and it was stated that it had been the practice of the Bishops to always leave the right of nominating to the Canons, at any time, even after ten years; but this practice could in no way be contrary to the law, since parishes of this kind, which are properly speaking annexed to the Chapter, never become vacant, and therefore, no harm is done to the souls.

[*Latin ed. p. 417*]

ON ABSOLUTION AND DISPENSATIONS. 417 It pertains to the salvation of souls that, through an administrator appointed by the Bishop, sufficient provision be made. However, whatever may be said about this practice, and if some time should seem desirable for making a nomination, he contends that at least six months should be granted: for since there is no special, predetermined time in canon law for the nomination of such vicars, a general rule must be observed, which extends the delay to six months, chapter 2 concerning courts. He further states that it is unheard of and excessive that, as Giraldus asserts in *Barbosa, de officio Parochi*, appendix 2, at the end, number 5, there is an interval of eight days for making the nomination. For, as can be gathered from the cited writing of the Sacred Congregation of Bishops, and from the Regulations, which Giraldus cites (and which were duly extracted from the archives of the same Sacred Congregation), the aforementioned Resolution concerned a completely different case. Indeed, when the Chapter of Assisi was obligated to appoint two vicars for the cathedral parish, and in the year 1603 it was discovered that the capitulars, having removed one of the vicars, neglected to proceed with the election of a new one, Emus Burghesius, Prefect of the Sacred Congregation, wrote to the Bishop, urging the Chapter to make the nomination, and added that if, within eight days, they did not do so, he himself would appoint a vicar in the name of the Sacred Congregation, which had declared that there should always be two vicars (1). Thus far, the Chapter's position on the previous question; regarding the new questions raised by the Bishop, he generally observes that the Bishop cannot, by virtue of his ordinary power, declare the perpetuity of vicars in the present matter; nor can he rightly invoke the Decree of the Council of Trent, session 7, chapter 7, on Reform, since this Decree rather favors the removability of vicars than their perpetuity, as expressed in the words of that Decree, namely: "suitable vicars, even perpetual ones." As Pignatellius notes in volume 9, consultation 143, number 14, and Pichler in volume 2, *Index et Titulus*, 27, decisions 90, the term "suitable" also seems to indicate a case that is more doubtful and less doubtful; the Rota decided in number 53, number 16 and following, before Peutinger. (1) It is not uncommon for authors to attribute a certain opinion to the Sacred Congregations, which perhaps the SS. Congregations never considered, as can

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be seen in *Acta, tom. IV, fasc. XLIV*. Therefore, caution is necessary when authors support a certain doctrine solely through a citation of a particular Resolution.

[*Latin ed. p. 418*]

418 OF THE INCOMPATIBILITY OF BENEFICES. He observes, again in general terms, that on several occasions, at the request of Bishops, the perpetuity of vicars has been denied by the Holy See, as in Ratisbon, June 28, 1713; in Camerino, January 26, 1726; in Assisi, November 16, 1707; in Aliphana, January 12, 1726; in Nusco, April 14, 1764; in Spire, July 18, 1761; in Gubbio, August 28, 1773; and in many other places, especially in the most recent case of Baren, August 29, 1857. Furthermore, he notes that, according to Pichler, *loc. cit.*, in the end, Ordinaries are not even after the Tridentine Decrees, free to provide for a parish through perpetual vicars, unless: 1° it has been expressly granted in the letters of union to provide for or administer a united parish through temporary vicars; 2° the benefice or parish is united to a Chapter with full rights, that is, not only with regard to temporal matters, but also with regard to spiritual matters, as the Sacred Congregation declared in the case of Gallemart, session 25, chapter 11, on Regulars, §, concerning the removable vicar; 3° a temporary vicar has always been presented and admitted for a time beyond memory, as Ferraris states, *Vic. paroch.*, n. 8; Barbosa, *Ius eccles.*, universal, I, 3, c. 6; 4° there is no just cause for change, since the Council has granted Ordinaries the right to make decisions based on the judgment of a good man, not at their own discretion, as Reiffenstiel states, *loc. cit.*, n. 28, in the end; Pignatelli, *loc. cit.*.

Moreover, the Chapter maintained that all these circumstances were in its favor, citing the arguments already presented and confirming its proposals with new authorities. However, when considering a just cause for change, the Chapter observed that the alleged deficiencies, such as the lack of a proper lamp before the Blessed Sacrament and other similar matters, although admitted to be true by hypothesis, could not lead to the consequence of establishing the perpetuity of vicars; rather, abuses should be corrected without infringing on the rights of the Chapter.

But after these points, it began to refute what had been objected from the opposite side, without overlooking the fact that the Chapter does not usually remove vicars except for a very serious reason; and that the Bishop who admitted them, indeed, had used this very fact to prove that vicars should not be considered removable. Furthermore, with regard to the alleged deficiencies, it argued that the rule from the Constitution of St. Pius V should be applied in this case.

[*Latin ed. p. 419*]

ON ABSOLUTION AND DISPENSATION. There are three reasons: 1°

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Because that norm was established by the Holy Father for perpetual vicars, and therefore, temporary vicars could demand no more in this matter than to be equal to the perpetual vicars; and therefore, they could not rightfully claim anything greater by virtue of the Bull of Nicholas; 2° Because Pope Pius VI, of blessed memory, in a brief addressed to all the parishes of the diocese in question, provided that a sum of 50 Roman scudi per year should be provided, excluding uncertain expenses; 3° Because the Holy General Chapter declared to the parochial chapters that the same rule should be applied on two different occasions: first, on September 29, 1783, in the case presented by the parish priest of Montis Luiani, for whom the appropriate sum, according to the prices prevailing at that time, amounted to 87 scudi; the Holy General Chapter denied his request for an increase in that sum; and secondly, more recently, on May 8, 1824, in the case of the appeal of the parish priest of Gesaemurcia, who had established that the appropriate sum should be limited to 43.50 scudi, the Holy General Chapter responded: "The canons are obliged by the Bishop to provide an increase in the appropriate sum, at least up to the completion of the annual 50 scudi. And if the appropriate sum is to be increased further, it is not necessary to cause harm to the Chapter, but rather, according to the aforementioned brief, it should be increased in accordance with the instructions given to the Bishop of this diocese: "As for the parishes... we order you to ensure that the appropriate sum for them is increased to 50 Roman scudi, excluding uncertain expenses, either by combining them, if it can be done conveniently, or by means of chaplaincies, or by those who are patrons if the churches are under the patronage of such, or by free offerings, if they are of free collation, after first, as necessary, reducing and uniting them with the parochial churches, whose revenues are thus increased. Regarding the conventual Mass, which was celebrated by the vicar every other week, the Chapter paid the vicar an annual sum for that celebration, which was an ancient custom, as noted, which was confirmed by the chapter constitutions approved by the Holy See in 1755, and by the Bishops. This does not cause any harm to the faithful, since the vicar could be replaced by any of the canons or mansionaries. Nor can it be said that the vicar is exempt from the choral office."

[*Latin ed. p. 420*]

420 The incompatibility of benefices is a matter of concern, especially when it involves the cathedral church, which uses its calendar. It is possible that a dignitary, bearing the insignia of the Mansionaries, might also have the right to participate in the choral service, thereby creating a conflict of interest. Regarding the preservation of the Most Holy Eucharist, it was noted that in three rural parishes, properties were established for the maintenance of lamps. In the remaining parishes, there was a custom, approved by the diocesan synod, which stipulated that if the parish churches were unable to bear this expense, the people should be required to contribute

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to it. However, if this custom is not being observed, it should be attributed to the negligence of the vicars. After presenting these and other matters in detail, and after the documents were duly communicated, the following questions were to be resolved: I. "Whether and how the incompatibility of a canonry can be established in this case." And, in the affirmative: II. "Whether and how the Most Reverend [Ordinary] should be consulted regarding absolution for past actions, and regarding a dispensation for future actions in this case." III. "Whether and how the removability of vicars can be established in this case." IV. "Whether and within what time frame the Chapter is obligated to nominate vicars, so that the devolution of the office can take place in this case." And, in the affirmative: V. "Whether the perpetuity of the vicars should be declared in this case." VI. "Whether and how the custom of celebrating a customary Mass can be maintained in this case." VII. "Whether and how the stipends of the individual vicars should be increased in this case." VIII. "Whether and how the Chapter is obligated to bear the expenses for the maintenance of lamps before the Most Holy Eucharist in the rural vicariates in this case."

RESOLUTION. The Sacred Congregation of the Council, after discussion on September 24, 1864, decided: To I. Negatively. To II. As provided in the first [question].

[*Latin ed. p. 421*]

ON ABSOLUTION AND DISPENSATIONS. 4-21 To His Holiness. Affirmative. To IV. Affirmative within six months. To V. VI. VII. VIII. Deferred, and according to (1). From THOSE AMONG OTHERS WHICH YOU GATHER! I. That a Canon, by himself, that is, by law, cannot hold the office of temporary vicar in the care of souls: although it may be incompatible in some way by accident, or by some particular prohibition, or because the Canon cannot properly fulfill both offices in fact (2); II. The less it should be considered incompatible by itself, if the care of souls is inherent in the Chapter to which the Canon belongs, who, as a temporary vicar, has been appointed by the Chapter; III. In the present matter, according to the frequent ancient custom, the care of souls has devolved upon the Chapter, which the individual Canons in the past were obliged, or at least able, to administer; IV. Although such administration was subsequently prohibited to the Canons, lest they be too distracted from monastic life; nevertheless, having abandoned regular life, the reason for the prohibition has ceased. V. Nevertheless, a praiseworthy custom has remained, (which the entire Council of Trent commended and desired) that Canons should not, by themselves, cumulatively, but through vicars appointed by and on behalf of the Chapter, administer [the care of souls]. (1) As I have indicated, although the matter regarding these four subsequent doubts has been deferred, it has hitherto not been proposed, nor perhaps will it be proposed again, which often happens: in such cases, we say that the reason

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for the deferral has been postponed to the Kalends of Greece. (2) Regarding this distinction between incompatibility by law and incompatibility in fact, a case was considered concerning a Vicar-curate, which I cited in vol. III, page 449. Since a simple incompatibility of fact is not strictly canonical, it does not produce those legal effects which a true canonical incompatibility produces, according to the texts in cap. Ad haec, cap. Praeterea, cap. De multa de Praebendis. However, if an incompatibility of fact is admitted in the present matter, such that Anthony could not, by the very fact, exercise both the office of Vicar and the office of Canon, it might be asked whether he would need an indult, lest he be subject to ecclesiastical penalties: it seems to me that Anthony does not need such an indult; because the care of souls is inherent in the Chapter, so that the Chapter, as the Chapter, is thereby itself a true Parish, and it is not prohibited to appoint one of its members to perform the office assigned to it; in the same way that it is not prohibited to appoint someone from among the Canons to any other office of the Chapter.

[*Latin ed. p. 422*]

422 ON THE INCOMPATIBILITY OF BENEFITS IV. Therefore, such parishes should never be considered vacant, even if the Parish Priest were to abstain from the exercise of his pastoral care, since the Chapter itself would be the Parish Priest. V. With the strengthening of the Tridentine law, which granted bishops the authority to immediately appoint administrators where an actual vacancy existed, the rights of the Chapter in this matter were somewhat curtailed. VI. It cannot be argued that, under the authority of the Tridentine Law, the Ordinary could have made vicars perpetual, since the full jurisdiction over the care of souls belonged to the Chapter in parishes that were subjectively united (1). VII. Even more so, because grave and particular reasons would not appear, by which the Chapter would be deprived of this most important right and office. VIII. It cannot be said that: a) Those who elaborate on session 7 of the Council of Trent, concerning ecclesiastical property, speak appropriately on this matter; nor is it surprising, since session 7 itself is not entirely defined, especially with regard to perpetual vicars. Nor can it be argued that the authority of the Ordinaries, derived from the words which seem to grant them discretion, is absolute. For the discretion granted by law to judges must be understood not as absolute, but as guided by the sacred canons; at most, the discretion referred to can be understood in the sense of what is done by a prudent man. Therefore, the opinion prevailed that bishops could generally compel Chapters, to which parishes had been united, to appoint temporary vicars, so that they would not be governed indiscriminately without a designated parish priest, regardless of the manner in which the parish was united, whether through an accessory union or a subjective union; they could also compel Chapters to establish

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perpetual vicars in parishes that were accessory united; but not in parishes that were subjectively united. A great difference exists between these two types of union: for an accessory union does not, by itself, cause the Chapter, as such, to be the true Parish Priest, and to have sufficient grounds for the immediate care of souls; but it does require the Chapter to fulfill the obligations that are connected with a parish that is accessory united. Therefore, if a perpetual vicar were established in a subjectively united parish, the Chapter would thereby be deprived of the right and office of being the Parish Priest, and would cease to be the true Parish Priest, since the entire care of souls would pass to the perpetual vicar, and this vicar would be the true Parish Priest, although lacking the title; but if a perpetual vicar were appointed in an accessory united parish, the Chapter would suffer very little legal harm, and with regard to the care of souls, it would be in almost the same position as before, since it would retain the title of Parish Priest, because it possesses the parish as a temporal entity, to which the office of the care of souls is attached. The learned Fagnanus, in his chapter "On the office of the vicar," has presented an erudite discussion on this matter, stating certain things as certain, namely, whether it is advisable for the Holy See to decree that perpetual vicars should be established; and perhaps we will return to this subject in our publications.

[*Latin ed. p. 423*]

ON ABSOLUTION AND DISPENSATIONS. 423 To protect perpetual vicars, [establish] those that are universal, and those that are derived from the best reason, so that they may benefit the parishes, and those that are most easily applicable to all similar churches. I X. Furthermore, according to the statute established by the Ordinary, the economist, in temporal vicariates, must adhere to the general norm regarding the appointment of his own vicar within six months. REGARDING THE APPOINTMENT OF AN ECONOMIST. February 27, 1869. Summary of the case. In the very ancient cathedral church of F. in the Neapolitan province, which was later united to the Archiepiscopal See of N., the care of souls was imposed upon the entire Chapter, which was exercised by each Canon according to what has been explained in the preceding case. However, it happened that from the sixteenth century onward, such care of souls was incumbent upon each Canon, that (perhaps considering that each Canon had entrusted his office to the care and assistance of others), almost no one at all actively engaged in the care of souls. The Bishop of that time, in order to remedy this evil, in the year 1598, with the permission of the Supreme Pontiff, erected and established, in the aforementioned cathedral church, with the consent and approval of the aforementioned Canons, a Deanery, the third dignity of the said Chapter, who shall be and must be the Curate and exercise the care of souls of both the cathedral parish and other united parishes, and ad-

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minister all the sacraments... he must have a voice and stall in the Chapter and serve with the other members of the Chapter in all divine offices... he must be the third dignity after the Pontifical and must have all and singular privileges... as do the other dignities of the Chapter. This Dean must have and hold the thirteenth portion of all fruits, revenues, and proceeds... both of the gross mass,

[*Latin ed. p. 424*]

424. Regarding the deputation, concerning the daily and mortuary distributions, as well as other matters, it pertains solely to the Chapter, and nothing else. Therefore, once the Deanery was established, the Bishop immediately submitted it to a preliminary examination by a certain priest, without any intervention of the Chapter; and subsequent bishops have used the same procedure. Until the year 1862, matters proceeded peacefully. When the aforementioned Dean died in that same year, the Chapter elected Peter, who at that time held the office of treasurer within the Chapter, as the Curate, and informed the Archbishop of this, along with the news of the Dean's death. The Archbishop, considering the episcopal rights to be violated, and finding no justifiable reason for this election, appointed another Canon to temporarily administer the souls, and who, having received the parochial funds from the Chapter, fulfilled the office. The Canons, indignant at this course of action, and not agreeing with such a procedure, sent further letters to the Archbishop, claiming the right to appoint parochial Curates. These, however, were dismissed, and they then presented a petition to the Sacred Congregation, resulting in a rescript being issued: The Archbishop, for information and for a vote, should report to the Fiscal Advocate regarding the rightful course of action, with the relevant documents submitted for consideration. Finally, with the rights of both parties brought to light, the matter was presented before the Sacred Congregation. A summary of the arguments. THE RIGHTS OF THE CHAPTER. The Canons recalled the Concordat entered into between Pius VII and Ferdinand I in the Kingdom of Naples, and a certain decision reached by those who had been appointed to implement the Concordat; for it had been decided that if a Dignity or Canonry had the care of souls attached to it, it should not be considered as a parish, because the Canonry or Dignity, as a principal title, takes precedence. With this established, the Chapter argued that the care of souls, in the matter at hand, had been accessory to the Dignity of the Deanery, and therefore, in substance, belonged to the entire Chapter, which could exercise it through one of its members; therefore, upon the death of the Dean, the entire Chapter should take over the exercise of the care of souls. Nor should this distinction be considered foreign to the Constitution of the Council of Trent, session 24, chapter 18, concerning reform,

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in which it is stated...

[*Latin ed. p. 425*]

ECONOMIC CARETAKERS. 425. It is most fitting for the salvation of souls that parishes be governed by worthy and suitable pastors. To ensure that this is accomplished more diligently and correctly, the Holy Synod decreed that, when a parish church becomes vacant, even if the care of the church is said to be incumbent upon the Bishop, whether it be administered by one or by several, even in those churches called patrimonial or dependent, in which it is customary to entrust the care of souls to one or several (all of whom are subject to the examination mentioned below), by death or resignation, or in any other way, even if the parish church itself is reserved or affected generally or specially, even by virtue of an indulgence or privilege in favor of the Holy Roman Church, of Cardinals, or of Abbots or Chapters; the Bishop must immediately, upon knowledge of the vacancy of the church, if necessary, appoint a suitable Vicar in that church, with a proportionate share of the fruits assigned at his discretion, who will sustain the burdens of the church until a pastor is provided for it. "In this constitution," he said, "the matter concerns simple parish churches, and not cathedrals or collegiate churches; for the Fathers of Trent did not mention these, nor could they have failed to mention at least several cathedrals when naming parish administrators." To confirm this, the Chapter argued that the habitual care of souls belonged to the Chapter itself, even if the Dean actually exercised it; he especially demonstrated this because a certain portion of the Chapter's revenues was assigned to the Deanate. This was considered by the Holy Rota in the decision *Seraphino*, 1084, no. 5, as an argument regarding habitual care. Therefore, since the habitual care was with the Chapter, the Tridentine decree could not be applied, because it was not a matter of the vacancy of the church or the care itself, but only of the exercise of that care, without the principal pastor being present. However, even assuming this, the Chapter argued that the right to appoint vicars, or as they say, economic caretakers, in the cathedrals and collegiate churches belonged to the Bishops, and that this could not be invoked in the present case, due to the existing contrary custom. To prove this custom, the Chapter noted that before the erection of the Deanate, the care of souls, both in fact and in law, belonged to the Chapter; after the erection of the Deanate, the care remained in law with the same Chapter.

[*Latin ed. p. 426*]

426 The DEPUTATION maintained that; in addition to what has been said, the Canons asserted that the Dean never wore the stole when the Chapter was present; and that, on the feast days, he himself did not bless the houses, but the hebdomadary Canon did; and that the rights pertaining to the black stole belonged to the entire Chapter. Although they could not

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bring forth ancient documents to prove these things, because in the year 1799 the archives had been consumed by fire; nevertheless, the following words were consistently found recorded in the parochial books from the year 1708 until the year 1845: "The beginning of the Chapter's administration because of the vacancy of the Deanery of the cathedral church: and on the occasion of the provision of the Deanery: the beginning of my Deanery, etc., and the end of the Chapter's administration." These words, indeed, had been seen and approved during episcopal visitations. These are the principal points presented by the Chapter. RIGHTS OF THE CURIÆ. – The Fiscal Procurator initially argued that the habitual care of souls did not reside with the Chapter, since the Chapter in the year 1796 had relinquished all care of souls, as evidenced by the attached document; and therefore, the Deanery, with the annexed care of souls, had been established in such a way that it could freely be conferred without prior concurrence, and that it had been conferred by the Bishop of that time, and subsequently by his successors. Certainly, when such a care is vacant, it is not doubtful that the deputation of an economist belongs to the Bishop, as Ferraris, in *Bibliotheca Canonica*, at the word "Vicarius Parochialis," numbers 38 and 44, states: "The deputation of a temporary vicar or economist, in this last case of the vacancy of a parish, pertains to the Bishop, in whose diocese the vacant parish is situated, or to him who can institute a concurrence," as Barbosa reports that the Sacred Congregation has decided. However, even if the habitual care of souls resided with the Chapter, it cannot be inferred that the Chapter has the right to depute an economist, since, according to the attached Tridentine Decree, this right is clearly ascribed to the Bishop in any church that has the care of souls, whatever privilege it may have, even if the care of the church is said to be administered by one or more individuals. And this has also been confirmed by the Constitution *In conferendis* of Pius IV, and by Benedict XIV, *Cum semper*, and so decided by the Sacred Congregation, as Barbosa, *Jura Ecclesiastica*, I, 3, chapter 6, number 5, and Carzia, *De Beneficiis*, page 9, chapter 2, state.

[*Latin ed. p. 427*]

ECONOMICAL CARETAKERS. 427 If one were to consider the Decanship as a vicariate, it would certainly be a permanent vicariate; indeed, according to the teaching of the Doctors, such vicariates, to which the care of souls is attached, are conferred not precariously, but by canonical institution, and are considered as a true Benefice in almost all cases, according to the response of Innocent III in chapter 27 of the *Rescripts*: "For one ought not to be said to lack a Benefice, to whom provision has been made from the revenues of a permanent vicariate." In this case, the Tridentine disposition would have a more evident application: even if it is said that the care of the church is to be administered by one or more caretakers, even if the parish church is generally or specially

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affected, this is to the advantage of the Chapters. As for custom, the Fiscal Pro Curator observed that in the Kingdom of Naples, there is a general rule and an unforgettable custom, that parish churches are also conferred with Dignities or Canonicates by the concurrence of the Chapters, and that during vacancies, they are provided for by their own Bishops without any intervention of the Chapters; nor, he says, has it ever been heard in the same Archdiocese that any Chapter has claimed any right in such nominations and presentations, and that the Bishops have always remained in such peaceful possession. He then rejected the arguments presented to the contrary, and with regard to the Concordat, if it could be argued that there is a right to appoint an economist during a vacancy, then by the same reasoning, those same Canons could assume the exercise of the care without the intervention, approval, or confirmation of the Ordinary, just as before the erection of the Decanship. However, once a law has been established, its consequences are not immediately considered to be decreed; especially when so many and such arguments are contrary. He argued that the custom presented to the contrary has no basis, especially because the Chapter has not been able to produce any document to demonstrate it; for the words brought to prove it, although admitted as authentic, he observed that the term "Capitular" can perfectly signify a person who, although not nominated by the Chapter, exercises an office habitually pertaining to the Chapter. However, if such a right had been exercised by the Canons, at least from the time of the fire, the Chapter constitutions, or copies of letters by which they have made it known to the Bishops, would have been produced.

[*Latin ed. p. 428*]

428 CONCERNING THE ADMINISTRATION OF THE CURATE'S AFFAIRS. The purpose of the deputation concerning the curate's affairs was to present matters; and since these matters were not made clear, it is not to be argued that they do not exist. With these and other considerations presented on both sides, the aim was to resolve the question: "Whether and to whom does the administration of the curate's affairs pertain in this case?" RESOLUTION. - The Holy Congregation of Councils, on February 27, 1869, judged that the answer should be: Affirmative, and that the administration pertains to the Archbishop, and furthermore. FROM WHICH THE FOLLOWING ARE GATHERED: I. From the law of Trent, it pertains only to the Bishop or Ordinary, the administration of the parish vicar during the vacation of the parish. II. Such a right or office extends to any parish churches subject to the Bishops, even if those churches are considered to have been granted special rights or privileges. III. Therefore, cathedrals or collegiate churches, to which the care of souls pertains, which they exercise through a vicar, cannot decline the law of Trent during the vicar's vacation. DISPENSATION FROM IRREGULARITY. On February 27, 1869. A SUMMARY

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CASE. Peter, a native of Gallus, having completed his theological studies and having been ordained in the minor orders twelve years ago, greatly desired to ascend to the sacred Orders. However, due to a congenital defect, and because his eyesight was made worse by his studies, he was unable to regularly recite the Divine Office, nor to celebrate the Masses that were due, without causing very serious harm to his visual ability. Therefore, with a humble plea, he supplicated the Most Holy [Father], that he might be granted a dispensation to fulfill some other pious work in lieu of [the aforementioned duties].

[*Latin ed. p. 429*]

DISPENSATION REGARDING AN IRREGULARITY 429. Concerning the recitation of the Divine Office and the votive Mass of the B. Virgin Mary, to be celebrated in place of the daily Mass. The Bishop and his Vicar, having highly commended the morals, piety, and doctrine of the Orator, and having testified that he is worthy to ascend to higher Orders, said: "I readily testify that (Peter) is worthy, by his morals, piety, and doctrine, to ascend to higher Orders; and I gladly grant my support so that the devout prayers of the Orator may be followed by grace."

THINGS NOTED FROM THE OFFICE. It is therefore noted, according to the Office, that the Orator is afflicted by this evil, suffering from a canonical irregularity. In the old Law, it was forbidden to offer sacrifices to God, especially by those who were physically impaired, as is evident from Leviticus 21:18. Although this law, being ceremonial, ceased with the beginning of the Church, yet, following the example of that same law, the sacred Canons, with the progress of time, have prohibited the same in substance, as is stated in Canon llliteratos, Dist. 16, where it is read that Pope Gelasius declared in his letter: "No one should presume to promote to the order of the Clergy those who are lacking in letters, or who are impaired or diminished in any part of the body, because, lacking letters, they cannot be fit for the sacred offices; and the legal precepts forbid anything defective from being offered to God." Regarding the dispensation, it is noted that we are not dealing here with a promotion to the sacred orders in which an irregularity has arisen, but with a promotion. Furthermore, it is the practice of the Holy See to grant a dispensation more easily in the case of a promotion than in the case of a promotion. However, in favor of the petitioner, it was considered that his morals, piety, and knowledge, which were highly commended by the Bishop and his Vicar, should be taken into consideration, especially in these times in which the deficiencies of priests are evident everywhere. Moreover, it was noted that the Orator did not suffer from a weakness of the nerves of the eyes to such an extent that he could scarcely distinguish light from darkness; on the contrary, he could see and write, and diligently served his church and parish, not only assisting, but also properly directing the sacred ceremonies and rites that

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were performed in that church; and furthermore, he was present at a review of this matter by his own parish priest and by the Bishop's Vicar, and it was examined and signed by a physician.

[*Latin ed. p. 430*]

430. The testimony [regarding the dispensation] stated that the witness, being in the same condition as he is now, would remain so in the future, unless, perhaps, the speaker's excessively long and frequent reading strained the eyes. Furthermore, it was noted that eleven years ago, the speaker had been appointed as an orator for a boys' institution; an institution to which the dignity of the priesthood contributes greatly, and from which the Church derives benefit, especially if one considers that those who bear the Christian name are involved in corrupting the instruction and education of youth. Nor could a certain Neapolitan document concerning irregularities, dated September 13, 1814, be presented against the speaker's petition, in which it was stated that a cleric, having been injured by lightning, was only able to distinguish light from darkness, and, having used the work of others, devoted himself to studies, having ears that could not hear what he could not perceive through his eyes; therefore, it is not surprising that the Sacred Congregation responded negatively to the petitioner's request to be allowed to celebrate Mass with the assistance of a priest. Finally, the speaker's exceptional disposition also seemed to merit the granting of grace for his advancement to the ecclesiastical state; for, possessing a considerable fortune, and being already thirty-six years old, he appeared to have intended from his youth to ascend to the priesthood.

RESCRIPT. The Sacred Congregation, after considering the prayers presented in the meetings held on February 27, 1789, decided to respond as follows:

I. It is not permissible for one who is to be promoted to the sacred orders to obtain an indulgence from reciting the Divine Office and from reading the prescribed Masses.

II. Nor can a severe visual impairment be presented as a reason for obtaining this; for such a bodily defect, if it prevents one from reading the Office and the prescribed Masses, must be considered an impediment (1).

(1) On this occasion, it will not be out of place to explain how the Indulgences granted to blind priests by the Holy Congregations should be understood. This has been briefly and accurately described in the manner customary to him by Father Aloysius a Carpo in his *Caeremoniale*, according to the Roman rite, published in 1868.

[*Latin ed. p. 431*]

FROM IRREGULARITY. 4-8i IH. An irregular cleric, who desires to be promoted to the sacred orders, will not be made regular by the Holy See,

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unless it is absolutely required or there is evident benefit to the Church.

TRANSLATION. January 23, 1869. SUMMARY OF PRAYERS. Since the year 1851, a noble priest, from the family of the Marquis N., at his own expense, performed the pious exercise of the Month of the Precious Blood of Our Lord Jesus Christ, which, already instituted in that city, was celebrated through the alms of the faithful. And so that this exercise would not be neglected after his death, he left in his will a sum of 500 scudi, with the provision that the heir should inherit this sum, but if he did not wish to take charge of the pious exercise, he should pay the 500 scudi. In the event that the heir should neglect this pious work, he adds that if his heir neglects the implementation of this pious bequest, the Bishop of the time shall demand the 500 scudi and himself perform what is necessary for the pious exercise. This exercise of piety was performed in the parish church of Saint Mary. After the death of the priest N., his heir, his brother, presented a petition to the Holy See, requesting permission for himself and his descendants to fulfill the bequest, not in the church of Saint Mary, but in the church of G. page 166.

"A votive Mass for the Blessed Virgin Mary can be celebrated daily (except during the Triduum of the Death of Christ) by a blind priest, if he has obtained an Apostolic Indult; in which case he must always wear white vestments and recite the second prayer of the Holy Spirit, the third prayer for the Church or for the Pope (except on Saturdays) and without the Creed, even on solemn days. He can always say a votive Mass from Pentecost to Advent, or one assigned according to the time (even on the feasts of the B.V.M.); also, on days not prohibited, he can say a Mass for the Dead. If, however, he has obtained an Indult to celebrate a votive Mass of the Holy Cross on solemn days, on which days the Church uses the color red, he must add the second prayer of the B.V.M. and the third prayer for the Church or for the Pope. But if the priest becomes completely blind, then it is necessary for him to abstain from celebrating until he has obtained a new Indult; once obtained, in the celebration, he is strictly required to have the constant presence of another priest to assist him, even if this obligation is not expressly stated in the Indult."

[*Latin ed. p. 432*]

432. TRANSLATION. This petition, concerning the translation of relics, was presented to the Sacred Congregation twice. The first time, it was examined, and the response was delayed. The second time, on January 29, 1859, the Sacred Congregation responded: "Let it be read." However, not discouraged by this negative response, the noble heir renewed his prayers, and, disregarding the established order, requested the translation of the relics as a special favor, since the principal reason he presented was the preference shown by the testator towards the church of C., in which he had also arranged for his own burial. However, it was noted that the custom

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of performing those sacred functions with great solemnity in the parish church had long existed, on which occasion children were admitted and prepared for the Holy Communion, and a multitude of the faithful would gather, not without benefit to piety.

OBSERVATIONS FROM THE OFFICE. It was observed that the Church has always been favorable to those who have shown themselves worthy in her sight, and that she has always been eager to bestow benefits upon them. Indeed, the noble family of the testator had been so generous to the Church through numerous pious institutions that they had suffered no small loss in their own possessions for this reason, as the Bishop himself had testified. Therefore, it seemed fitting that such a wish should be granted, especially since there were precedents for granting translations, provided that the divine cult and the well-being of the people would not suffer as a result, as was the case in the decree of the Sacred Congregation concerning the reduction and translation of May 24, 1823, in Liège. However, it was also noted that the translation would inflict a wound upon the rights of the church of Saint Mary. It is certain that the acquisition of rights and privileges should not cause detriment to the rights of another. *See* Chapter [reference to a specific chapter].

DECREE. After considering the prayers presented in the meetings held on January 23, 1869, the Sacred Congregation decided to issue the following decree: "Referring to the decrees of January 29, 1859, and subsequent decrees."

FROM WHICH YOU MAY GATHER: I. That it is necessary to ensure that those things which are well established in the Church are not undermined by contrary regulations. *See* Council of Trent, Session 25, Canon 5, *de Reform.* (1). (1) A similar principle is also read in civil law, as in *Reg. Iuris*, paragraph 1, section 1: "It is not new that things which have been usefully established endure, even if..."

[*Latin ed. p. 433*]

LEGATI, Paragraph 433, Section II: Because a certain pious practice, properly established in a particular church, and diligently observed, increased by the alms and offerings of the faithful, cannot easily be transferred to another church.

FROM: CONGREGATIONE EPISCOPORUM ET REGULARIUM. Regarding Suspension and Distribution. Dated February 29, 1869. Summary of the Case. A Canon Theologian, N., was serving in a clerical institution under the mandate of the Bishop in the diocesan seminary. With the see vacant, and after he had requested and accepted the office of Royal Administrator of ecclesiastical goods under the Italian Government, disregarding all censures, the Capitular Vicar removed him from his teaching position, and the Theologian himself also resigned. After a new Bishop was created and installed, the Theologian took the opportunity

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to declare in the church, "the sacred Scriptures to the people and clergy," which is the proper duty of a Canon Theologian. A great deal of preparation was made for these scriptural readings, beginning on February 20, 1868, so that the Bishop, the General Vicar who had previously been the Capitular Vicar, the seminary, and a large number of clergy and people were present. At the beginning of the discourse, among other things, the Theologian criticized the previous election of the Capitular Vicar as being done without consultation, asserted that he had been unjustly removed from his office as Master in the seminary, much to the astonishment and sorrow of all, and then launched into injurious and slanderous accusations against the administration of the Capitular Vicar during the vacancy of the see, and against the person of the Capitular Vicar himself. After hearing these things, the Bishop, along with the clergy of the seminary, immediately left the church, and issued a decree suspending the Theologian from celebrating Mass, and then ordered him to make amends for the scandal he had caused, from which point the people could not recover. See also the case of the Choir, which I mentioned on page 448, in the Acts, Volume IV, Section XLIII, in which this principle is most firmly established.

[*Latin ed. p. 434*]

434. To bring his mind into harmony with his conscience, the theologian was assigned spiritual exercises for eight days. He obeyed regarding the suspension, but not regarding the spiritual exercises, offering reasons that, had he been of sounder mind, would have rather condemned him; for he asserted that he had spoken with full deliberation, and that he hoped that what he had said would be beneficial in the future; and that he was not guilty, since he had fulfilled an outstanding duty in preaching from the rooftops, etc. Since he still refused to obey, he was fully suspended from divine offices and from entering the choir in his canonical habit. Nevertheless, with the intervention of the Vicar General, who had previously been the Vicar Capitular, the Bishop gave a splendid example of his pastoral leniency. For, on April 6th, he issued a decree with these words: "We release and absolve you, (N), from the censures which we have imposed, and restore you to the exercise of your rights." Remember, however, that We cannot absolve you from the obligation by which you are bound by the force of Divine Law to repair the most grievous scandal... And until you have made this reparation, We will never grant you the faculty of being absolved from your sins, for which reason you will be deprived of the usual signs of friendship which We give to other Canons and Priests." Furthermore, he was reminded that he could not be absolved by confessors until he fulfilled the obligation of repairing the scandal. This obligation to repair the scandal, once declared, seemed to that Canon to render the absolution from the censures futile, and therefore he refrained from entering the choir.

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Finally, in order to ensure his full obedience to the Bishop's commands, he was also excluded from the fraternal councils of the canons. He turned his prayers to the Sacred Congregation of the Council and to the Regulations, requesting that the decrees of his suspension be declared invalid, that he be restored to his presence in the choir, since he had abstained from entering it not of his own accord, and that he be reinstated in the exercise of all the rights which he had enjoyed before the suspensions. Therefore, in accordance with the usual procedure for matters to be considered, the following questions were presented to the Sacred Congregation. A synoptic discussion. THOSE THINGS WHICH ARE OBJECTED TO THE THEOLOGIAN. Even after absolution from the censures, it would have been superfluous for him to be present...

[*Latin ed. p. 435*]

AND OF DISTRIBUTIONS. 435 It was necessary to dispute the matter, but it was also necessary to note something, so that judgment could be rendered on the second doubt. Therefore, certain observations, favored by the Theologian, were made, which seemed to lessen the gravity of the injuries and calumnies; but, considering the lightness of the fault, it was observed that suspension was a grave penalty, which cannot be imposed except for those offenses for which (the delinquent) ought to be suspended or removed from office, as prescribed by Alexander III, chapter 4 on judgments, whose entire text reads: "But if Clerics have been convicted or have confessed to a crime before a secular judge, they are not, for this reason, to be condemned to any extent by their Bishop. For just as a sentence pronounced by a judge not their own is not binding, so neither is a confession made before him. But if, before the Bishop, they have confessed to crimes, or have been convicted by legitimate proof, provided that these are crimes for which they ought to be suspended or removed from office, then it is not unjust to suspend them from their orders or to remove them permanently from the ministry of the altar. Furthermore, Benedict XIV, in his work on diocesan synods, book 10, chapter 1, teaches: "Although some Doctors assert that suspension and interdict can be imposed for a minor offense, it is more correct for others to teach that suspension from divine offices, or from office and benefice for a long time, and also a personal interdict, if it is not partial, but complete and total, are not validly imposed for a minor offense, nor prudently for a mortal offense, which is not accompanied by grave matter. Therefore, considering the lightness of the fault, the first suspension seemed at least excessive, and it became even greater because of the imposed spiritual exercises, and much more serious because of the subsequent suspension from divine offices and from entering the choir in the canonical habit; and, under the same title, several penalties were accumulated, contrary to the disposition of the sacred canons, chapter 4, § 2, on judgments, since the Judge should not overwhelm the accused with

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double contrition: for there it is written: "But in the case of adulteries and other crimes which are minor, the Bishop can grant dispensation to Clerics after they have performed their penance. But he should not hand over any who have been punished for their excesses (having fulfilled their office) to a secular judge, nor should he overwhelm them with double contrition." Therefore, it seems that the decree of suspension should be revoked, and the Canon should be restored in all its rights.

[*Latin ed. p. 436*]

436. Considering these and other matters, and with the favorable opinion of the aforementioned Canons, it is understood that the Holy Congregation of the Council has declared, on more than one occasion, that Beneficiaries absent from the choir due to unjust investigation or persecution are to receive all daily distributions and other emoluments, as if they were present in the choir, as was decreed in Arianensis, April 21, 1635; in Anagnina, August 23, 1681; in Imola, November 19, 1707; in Lucana, July 23, 1716; and in Ferentina, August 2, 1721. Furthermore, concerning the impediment arising from censures, Ferraris, in his *Bibliotheca Canonica*, under the word "Distributiones," article 1, number 28, states: "A Canon who has been excommunicated and subsequently absolved by sentence, which has become final, is to receive the daily distributions, and any other emoluments which he may have been accustomed to receive from the infirm." The Holy Congregation of the Council, as reported by Fagnanus, etc., also decreed that a Canon unjustly suspended from office or benefice is to receive the daily distributions, "although it does not pertain to divine offices."

THOSE MATTERS WHICH ARE BLAMED AGAINST THE CANON.

Considering the injurious and slanderous words with which a person connected with the office of Capitular Vicar was severely affected, and considering that the aforementioned Canon, having deserved the highest esteem from both the Chapter and the new Bishop through his dignity as Archdeacon, both in the aforementioned office of Capitular Vicar and in the new office of General Vicar, and therefore through his public reputation, it is noted that these same injuries have become more serious, considering the circumstances accompanying them as indicated above. Therefore, it does not seem that the Bishop exceeded the limits of his office if he suspended the detractor and slanderer, and compelled him to repair the grave scandal, and if, with persistent obstinacy, he imposed a censure. However, it is not possible to impose censures on the same Canon in the present case, since he has already been absolved; nor is it possible to absolve him to repair the scandal, since this is prescribed by divine law, and to retract the calumnies, as the Authors of Moral Theology teach. Indeed, even the civil

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laws condemn the author of injuries to make amends, as Voet states in *Ad Pandectas*, book 47, title 10, number 17 and following, where, among other things, he teaches: "Not..."

[*Latin ed. p. 437*]

AND OF DISTRIBUTIONS. 437 "In every kind of injustice, there is a place for retraction, but only in the verbal sense, that is, by retracting the words, as a remedy for those who have been injured by words, and in the same way, the injury is purged as it was inflicted." Therefore, it was not undeservedly impressed upon the Bishop the canonical obligation of repairing public injury to honor, even independently of censures. With these things established, it easily followed that he could not canonically demand the daily distributions and other emoluments that are received by those present in the choir. And, having clearly distinguished the two periods of time, namely from the infliction of the censures until their absolution, and from the absolution and thereafter, it was argued against him that, during the first period of time, due to the just suspension, he could not receive the distributions, as Ugulin, *Tractatus de Censuris*, book 4, chapter 6, and the Sacred Congregation of the Council in Castrense, March 30, 1726, state. In that document, the beneficiary of the Conquestus, having been suspended by the Bishop, obtained a response from the Sacred Congregation: "He should no longer be molested." Relying on this response, he also inquired about the distributions from the time of the inflicted suspension until said response, and, with a proposed doubt before the same Sacred Congregation, "Whether distributions and revenues (that is, other emoluments) of the church are due to a priest, Dominic, who is absent... in the case where he is found to be attached and admitted to the choir?" The Sacred Congregation responded on April 13: "No, and furthermore." Regarding the subsequent period of time, it was stated that nothing prevented the priest from participating in the choir canonically; therefore, his absence from the choir should be attributed to his own will; and, accordingly, those distributions should not be due to him, according to the disposition of Boniface VIII, chapter 1, *De Clericis Non Residentibus*, paragraph 6, as amended by the Council of Trent in session 24, chapter 12, *De Reformatione*. With these and other considerations in mind, the following doubts were proposed: I. "Whether and how should the priest (N) be reinstated in the free exercise of his rights, which he enjoyed before the act of suspension, in this case?" II. "Whether and how should the aforementioned priest be granted permission to participate in the choir from the time of the Decree of February 20, 1868, until the present, in this case?"

[*Latin ed. p. 438*]

438. RESOLUTION CONCERNING SUSPENSION AND DISTRIBUTION. The Holy Congregation of Bishops and Regular Canons, having

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considered the matter, decided on February 29, 1869, to respond as follows. To I. Regarding the provision made by the Bishop's decree of April 6, 1868, to which the Priest (N) must comply. To I.i. Negatively. FROM WHICH THE FOLLOWING MAY BE GATHERED: I. According to the sacred canons, a suspension from divine offices, that is, from office and benefice, cannot be imposed for a long time except for more serious and mortal sins. II. A canon suspended *a divinis* does not receive choral distributions and other emoluments during the time of his absence due to this suspension, unless it is proven that the injustice does not lie with him. III. In the present case, the canon, having been the author of injuries and scandal, should have been largely excused from the absence from the choir, to which he was not always forbidden to participate. CONCERNING INSTITUTION. On February 19, 1869. The Case of Titus. Titus, a cleric of the town of the diocese of N., recommended by the Bishop, was presented by a lay patron for a canonry within the legally prescribed four-month period granted to lay patrons. It happened that, through false accusations, his reputation was publicly damaged by not insignificant evidence. The Bishop, who, according to the presentation, was obliged to canonically institute Titus to the canonry, abstained from the institution, and, informing the patron of these matters, he had the opportunity from the same patron to nominate another. It is affirmed that the Bishop, within the same four-month period, nominated the priest Joseph, not in writing, but verbally; and at the same time, he ordered that the bulls and letters of institution be issued for the aforementioned Joseph within the same useful four-month period. However, Titus did not comply with this; since he maintained that the institution could not be rightfully denied to him, he first appealed to the Holy Congregation.

[*Latin ed. p. 439*]

INSTITUTION. 439 He turns to vindicating his supposed rights; but having obtained a Rescript, the Orator exercises his right as is fitting, and before whom he has the right; and it is established that, subsequently, he turns his prayers to the Sacred Congregation of Bishops and the Kingdom, to which it belongs to judge of ecclesiastical crimes. Synopsis of the argument. RIGHTS OF TITIUS. Tititus, defending his rights, stated that he had been the only one presented within the prescribed four-month period; and therefore he had the right to canonical institution, for it is not possible for a legitimate presentation by a patron to be denied, unless the candidate is found to be unfit, as stated by Benedict XIV in *De Synodo Dioecesana*, book 1, chapter 2, canon 7; Schmalzgrueb, *Ius Canon. tom. 3, part. 4, title 38, number 257. And he demonstrated that his suitability had been proven by numerous documents and testimonies, not only regarding the excellent performance of ecclesiastical duties, but also regarding his good reputation and morals; and this was attested to by important men, including the

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Bishop and the Vicargeneral; and that this judgment had been given and had persisted until the end of the four-month period. To demonstrate that he was the only one presented within that same period, he explained that the canonry had been vacant on May 1st; and that there was no indication of a new presentation, but rather the contrary was evident, since the Bishop, during the month of August, had offered a parish to Joseph, and since he could not have received Joseph's acceptance of this parish except after the end of the same month of August, that is, after the expiration of the four-month period. Furthermore, he maintained that certain rumors of bad reputation were unfounded, since they lacked any real basis; and that if they had existed, neither the Bishop nor others would have recommended him at the very time when such rumors were circulating; indeed, with numerous indications and presumptions, Titius endeavored to exclude the alleged crime imputed to him. RIGHTS OF THE CURIA. From the perspective of the Curia, it was observed, based on the testimonies presented, that Titius's bad reputation did not appear to be entirely without foundation; and it could not be denied that Titius had at least been subject to infamy, which, as Ferraris wrote in *Verb. Infamia*, number 3, "arises from the evidence of the commission of some infamous act," or from a widespread opinion regarding such a committed act, for which...

[*Latin ed. p. 440*]

440 INSTITUTIONIS. "The estimation of the goods of a delinquent is injured among honest and upright men," even though no specific fault is expressly noted by law, nor is it established by sentence. However, it has been observed that it can be disputed whether a cleric noted with infamy is prevented from obtaining a benefice to which he has been presented; for some, such as Panormitanus and Navarrus, believe that the election of such a cleric is null by law itself; but Ferraris, in the aforementioned place, argues that such a nomination is indeed illicit, but not invalid, writing: "Although such a person should not be elected, nor provided for, according to the common opinion of Doctors, his election, or provision, does not seem to be null by law itself, but rather to be made null, when it is sufficiently proven that he has committed a crime." Card. De Luca, de Beneficiis, disputatio 70, n. 5, distinguishes thus: if the matter concerns a right fully established, the beneficiary cannot be deprived of his benefice unless a perfect proof of the committed crime is established; but if the matter concerns a right to be ascertained, that is, to prevent him from obtaining the benefice, "then it is entirely truer that only defamation is sufficient...so that, for this reason, in benefices which are to be given with greater merit or worth, another candidate should be preferred." Also, Vivian, de iure parochiali, I, 12, cap. In, follows the same doctrine. The Holy See, in the Trivicana Jurispatronatus of 17 June 1718, coram Foscaro, apud Fargnani de iurep., p. 5, canon 12, eas. 3, also taught that this rule has a certain place in the case "in which several

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have been elected or presented," with respect to whom the same reason does not apply, since the dismissal of those, even with defamation, is said to depend on a future and uncertain outcome of the pre-election; whereas, it must be held that the one presented, although he does not acquire the benefice solely by presentation, nevertheless has a firm right to it, so that, unless a just cause arises and is conclusively proven, the institution cannot be denied without a flaw of injustice, as is noted there by the Holy See. However, Titus is not the only one presented for the canonry; therefore, at least on this basis, the fact of the infamy should be considered. It has been sufficiently explored in law that a lay patron can, within a four-month period, change his nomination and present other candidates, Lambertini.

[*Latin ed. p. 441*]

INSTITUTIONIS. 441 de iurep. I. 2 p. 2 q. 7 art. 1 n. 4. Fargna par. 2. can. 9, 19, 1 1 , Rota decis. 91 n. 6 coram Priolo: quod etsi in praesenti themate patronus non variavit perse ipsum nominationem, tamen eumdem die 12 Augusti eam facultatem fecisse Episcopo: quare nihil aliud superesse, quam inquirere, an Episcopus hac facultate fuerit usus. Animadversum autem est in facto, Episcopum iam a die 7 Octobris 1867, cum causa penderet penes S. C. C. suis scriptis declarasse, se accersivisse Iosephum die 22 Augusti, et virtute sibi collatae facultatis comparentem viva quidem voce, non scripto instrumento, cumulative nominasse. Porro cum in iure non reperiatur praescripta forma peculiaris ad praesentandum, id fieri posse sive voce sive scriptis, Lotter de re Benef. 1.1 q. 2 n. 3 6 , Rota decis. 739 n. 14 part. 18 tom. 2 recent, et in Melevilana Beneficiorum 10 Iunii 1712 §. his, coram Aldrovando. Quamvis autem in facto aliquod videretur haberi indicium, quod fortasse huic assertae nominationi viva voce factae opponeretur, constare tamen satis de Episcopi mandato diei 29 Augusti ad Bullas e x pediendas et dandam possessionem Iosepho : nec non de Bullis iam concinnatis in quibus facta esset mentio praesentationis Iosephi factae die 22 Augusti. Hisce autem positis extra controversiam videri, omissa quaestione de crimine Titio impacto , ius esse Episcopi instituere in Canonicatu quem malit ex duobus cumulative praesentatis, Cap. Cum autem de iurep. ibique Doctores. Hisce aliisque relatis propositum est resolvendum Dubium « An et cuius favore institutio danda sit in casu. » RESOLUTIO S. Congregatio Episc, et Reg. die 19 Februarii 1869 causa cognita respondere censuit : Affirmative, favore illius ex duobus praesentatis, quem Episcopus praeferendum duxerit. Ex QUIBUS COLLIGES: I. Patronis laicis, quibus ex communi iure conceditur tantum quadrimestre tempus ad praesentandum, facultatem inesse variandi intra idem tempus praesentationem vel alios simul praesentandi.

INSTITUTIONIS. 441 concerning ecclesiastical law. I. 2 p. 2 q. 7 art. 1 n. 4. Fargna, paragraph 2. Canon 9, 19, 11. Decision of the Rota, 91, n. 6, before Priolo: that, although the patron did not change the nomination

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itself, he nevertheless granted the Bishop this faculty on the same day, August 12th; therefore, there remains nothing but to inquire whether the Bishop has made use of this faculty. It is noted in the facts that, as of October 7, 1867, while the case was pending before the Sacred Congregation, the Bishop declared in writing that he had presented Joseph on August 22nd, and, by virtue of the faculty granted to him, had nominated him, verbally, not in writing, cumulatively. Furthermore, since no specific form is prescribed by law for the presentation, it can be done either verbally or in writing, as stated by Lotter on ecclesiastical benefices, 1.1, q. 2, n. 3, 6, and in the decision of the Rota, 739, n. 14, part 18, volume 2, recently, and in the Melevilana documents on benefices, June 10, 1712, §. these, before Aldrovando. Although something in the facts might seem to indicate that this asserted nomination made verbally might be opposed, it is sufficiently established that the Bishop gave the order on August 29th to prepare and grant the bulls for the investiture of Joseph; and also that bulls had already been prepared in which mention was made of the presentation of Joseph made on August 22nd. With these matters established beyond controversy, it appears that the Bishop has the right to institute a canon in the prebend, choosing the one he prefers from two candidates presented cumulatively. Having presented these and other matters concerning ecclesiastical law and the Doctors, the purpose is to resolve the doubt: "Whether and in whose favor the institution should be granted in this case." RESOLUTION: The Sacred Congregation of Bishops and Regular Canons, having considered the case on February 19, 1869, judged that the answer should be: Affirmative, in favor of the one of the two presented, whom the Bishop deems worthy to be preferred. From the foregoing, it is gathered: I. That lay patrons, to whom, by common law, only a four-month period is granted for presentation, have the faculty of varying the presentation within that same period, or of presenting others simultaneously.

[*Latin ed. p. 442*]

442 INSTITUTION. XI. The Ordinary, among several candidates presented, can institute the one whom he deems most suitable. XI. Infamy resulting from an action can be the cause for rejecting a candidate or denying him institution, to which he has acquired a right through presentation (1). (1) A similar case was examined by the Sacred Congregation of the Council on March 28, 1722, the summary of which, as read in the *Thesaurus Resolutionum*, is as follows: "In Molen, a parish priest, the priest Joseph was presented by the community of the land of Massa Longobarda to the parish church of St. Paul, and in the absence of the Most Eminent Bishop, who was in the city on the occasion of the election of the Holy Father, the presentation was accepted by the Vicar General with the clause, 'if and insofar as.' Upon the return of the Most Eminent Bishop to the diocese, and with the insistence of the Fiscal Promoter, that the priest Joseph should not

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be admitted to the parish, on the grounds that he was not of good morals, and that he had been defamed for having had a certain improper relationship with a woman, to the extent that he had recently been forbidden from going to her house and from conversing with her, even under the pretext of kinship, a new cumulative presentation was made in the person of the priest Francis Gallup, who is currently a parish priest in the diocese of Ferrara, and this last presentation was accepted, and at the same time, and once, the other presentation made in the person of the priest Joseph was rejected. An appeal was interposed by the one who was unsuccessful, and the case was brought before this Sacred Congregation, and the following question is now being debated: Whether, in the present case, the infamy of the priest Joseph is sufficient for his rejection, without requiring conclusive proof. The Fiscal Promoter insists on the repeated rejection of the priest Joseph, arguing that it is not a matter of depriving him of anything, but of rejecting him, in which case the defamation is sufficient, and no conclusive proof is required, but rather lighter evidence, according to the widely cited decree 202, n. ii and following, from the collection of decrees of Alexander VIII. Therefore, the Most Reverend Fathers will decide, considering the rights involved, whether the parish should be assigned to Francis Gallup, which is the matter in dispute in this case. RESOLUTION: The parish is to be assigned to the priest Francis Gallup, and so it is decreed."

[*Latin ed. p. 443*]

443 FROM THE SECRETARY'S OFFICE: APOSTOLIC LETTER BY WHICH THE MOST HOLY POPE, IN THE FIFTY-YEAR OF HIS PRESBYTERATE, DURING A TIME WHEN THE CATHOLIC WORLD IS IN EXISTENCE, AND OFFERING DEVOTION TO THE COMMON FATHER, GRANTS A PLENARY INDULGENCE TO THE FAITHFUL WHO ATTEND SACRED SERVICES ON APRIL ELEVENTH. PIUS PP. XI. To all the Christian faithful who read these letters, greetings and the Apostolic Blessing. "That which we scarcely hoped would occur, namely that the Most High would grant us so long a course of life, so that, upon the completion of the fiftieth year of our received Presbyterate, we might celebrate the Sacred [event] with greater solemnity; this, if it pleases God, will happen on the eleventh day of April. But this joy, which has filled our heart with such great pleasure, has offered a new opportunity to the faithful to express their piety and to demonstrate their devotion to us. Indeed, we, rejoicing with incredible zeal in this auspicious event for us, have humbly offered prayers, that we might deem it worthy to join the joy of this day with their spiritual benefit, and to open the heavenly treasures, the dispensation of which God has entrusted to us, for their benefit. " Therefore, we, with a willing heart, wishing to comply with these pious wishes of the Catholic world, and confident in the mercy of Almighty God, and by the authority of the blessed Apostles Peter and Paul, grant to

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all and each of the Christian faithful, of both sexes, who this year, on the eleventh day of the month of April, attend the Holy Sacrifice of the Mass in any sacred church or oratory, truly repentant and having confessed, and having received Holy Communion, and who offer devout prayers to God for the conversion of sinners, for the propagation of the Catholic faith, and for the peace and triumph of the Roman Church, a plenary indulgence and remission of all their sins, which also applies to the souls of the departed.

[*Latin ed. p. 444*]

444 APOSTOLIC LETTERS. To the faithful Christians, those who, having been joined to God in charity, have departed this life, it may be applied, as a form of suffrage, which We mercifully grant in the Lord. We decree that, even with copies, or printed examples, of the present Letters, provided they are signed by the hand of a public notary and sealed with the seal of a person holding ecclesiastical office, the very same faith shall be given to them as would be given to the original documents, if they were presented. "Given at Rome, at St. Peter's, under the Fisherman's Ring, on the sixteenth day of March, in the year 1869, in the twenty-third year of Our Pontificate." N. CARD. PARACCIANI CLARELLI.

[*Latin ed. p. 445*]

445 APPENDIX XII. OPINION OF A JURIST ON CERTAIN DOUBTS RAISED IN SPAIN REGARDING THE ELECTIONS OF CHAPTER VICARS, WHICH WAS PRESENTED TO THE SACRED CONGREGATION ON JANUARY 16, 1862.

After the episcopal see had become vacant, a certain N. held the office of *advocatus episcopalis* in the Kingdom of Spain, and, furthermore, in February of 1838, had served as Chapter Vicar for twenty-two years in the cathedral of that city. After the death of the Bishop, a legitimate election was held for a Chapter Vicar, and seven canons were chosen, the majority electing the Canon Dean, who was also a Doctor in canon law; eleven canons attended the suffrage, while the remaining members of the clergy were present. Of these seven who voted, two were parish priests. This canon, who was also a Dean, had previously protested before the Metropolitan regarding this election, alleging that the elected Vicar was neither a Doctor nor a Licentiate in canon law, and that only one canon among the Chapter was licensed in canon law, while five were Doctors in civil law. The Archbishop, to whom the matter was referred, having heard the arguments presented by each side, gave his judgment, and the Apostolic See was consulted for its opinion.

A few weeks later, the Metropolitan see became vacant, as had happened previously with another episcopal see. The Chapter, to whom the matter was referred, was legitimately convened to elect a Chapter Vicar. There were thirteen electors, some of whom were represented by proxies, and the

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Canon B. was elected, although he was absent due to illness, and was represented by the Archpriest as his proxy. This Canon held only a Bachelor's degree in law, but only in civil law.

In another Spanish diocese, there were no Doctors or Licentiates in sacred canons among the canons, and the Dean was the only Doctor, but only in civil law.

[*Latin ed. p. 446*]

446 APPENDIX XII. When the episcopal see in Patti was vacant, a Presbyter, distinguished for his morals and learning, was elected as Capitular Vicar, who had previously performed the duties of the same Vicariate with great excellence. The Dean of the Chapter petitioned his Metropolitan to declare this election invalid, and obtained a decree by which he himself was appointed as Vicar. The Chapter received this decree with displeasure and immediately petitioned the same Metropolitan to have the execution of the decree suspended, so that a legal discussion could be held before him, with due observance of legal procedures. However, the Metropolitan not only postponed the Chapter's petition, but also refused the appeal, both in its suspensive and its devolutive aspects; the reason being that the decision was being made by him under the authority granted to him by the Council of Trent, and he severely admonished the Chapter members to comply with the decree. Finally, the Chapter yielded, lest greater damages follow; but it did not fail to object: that the Archbishop had exceeded the limits of his jurisdiction, and that he should have heard the Chapter members; that he should have ordered a new election to be held, if the previous one was tainted with nullity, since the elected candidate was not unworthy, etc. Since such questions frequently arose on the occasion of vacancies, both from the Chapters and from the Metropolitans themselves, the Apostolic Nuncio presented certain points for clarification to the legal authorities, so that a certain standard could be established for observance in Spain, so that such questions could be completely resolved, either by the Metropolitan or by the Apostolic Nuncio himself. The Nuncio considered these clarifications to be necessary: namely, that in the most recent agreements concluded between the Holy See and the Kingdom of Spain in the year 1851, concerning the appointment of a Capitular Vicar, the Tridentine decree, chapter 16, session 24, on Reform, should be strictly observed. However, it had not been uncommon, even after the agreements were concluded, for Capitular Vicars to be appointed who were neither Licentiates nor Doctors in Canon Law, even though such graduates were not lacking in the Chapter, just as it had been in the past, before the agreements were concluded, since those degrees were not considered necessary, especially if the elected Vicar possessed a similar degree in civil law. Furthermore, the Nuncio noted that among contemporary writers, some firmly asserted that there was no Capitular Vicar, even if the person had previously served as General Vicar

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of the Bishop for any period of time, unless he was adorned with the aforementioned degrees in Canon Law, obtained solemnly in a public university, even if only one person in the Chapter possessed a similar degree, and was not otherwise impeded from properly governing the vacant diocese. Moreover, the Nuncio added that in several dioceses of Spain, either Doctors or Licentiates...

[*Latin ed. p. 447*]

X. xii. It is observed that certain individuals are absent, or are scarce, and that they do not always exhibit the same qualities that seem necessary for the governance of vacant dioceses. Having stated these and other things, the same Nuncio proposed to the Sacred Congregation certain doubts, which were arranged in such a manner as to lie prostrate, as it were. Considering the gravity of the matter, the Sacred Congregation appointed a jurist, who would write down everything concerning these matters and express his opinion. This proposal, in its primacy, is presented to our readers. OPINION OF THE JURIST. "Having been asked to express my opinion on each of these matters, and having undertaken this task, I will endeavor, to the best of my ability, to satisfy the decrees of the Sacred Congregation, and I will be guided by the most serious authority of Doctors and Canonists. However, it seems to me appropriate to first remind the Sacred Congregation that, especially in these times, it is accustomed to respond to generally proposed questions with: 'Provision will be made in particular cases.' And this is justified: for almost every case presents some particular circumstances, by which it rarely happens that a general decree coincides with a specific case. Nevertheless, it would be prudent for the Order to consider whether, taking into account the particular circumstances of each place, and considering the repeated controversies arising from the conflicting opinions of the most modern authors, who presume to bring forth, without discrimination, the resolutions of the Sacred Congregation issued in each case, as a rule to settle all related disputes (and this is not without detriment to the spiritual administration of vacant dioceses), it is advisable to define each of the proposed questions individually. This is not entirely foreign to the style of the Holy Order: for in the treasury of resolutions, questions that are sometimes defined in a general way are also found, as is evidenced by the Doubts concerning jubilees in the year 1718 and the Doubts concerning indulgences in the year 1820, and other similar questions, although rarely, are also elucidated. Having stated these things, I will proceed to examine each of the individual questions and will address them in accordance with the principles of law and prudence." And, whatever may have been the custom previously in Spain, whether lawful or unlawful, it is undoubtedly necessary today to observe the form and the laws in the matter, as prescribed by the decrees of Trent, when appointing Vicars Capitular according to article

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20 of the agreements most recently concluded in the year 1851, between the Apostolic See and the Royal Majesty of Spain. Indeed, the words of the aforementioned article state: "When a See is vacant, the Chapter of the Metropolitan or Suffragan Church within the prescribed time, and in accordance with those things which were decreed by the Holy Council of Trent concerning this matter, shall elect only one Vicar..."

[*Latin ed. p. 448*]

448 APPENDIX XII. "The entire ordinary power [of the Vicar] shall be transferred, without any reservation or limitation whatsoever on the part of the Chapter, and once the election has been made, it cannot be revoked, nor can it proceed to nullity; hence, all privileges, customs, or usages whatsoever pertaining to the administration of the [ecclesiastical] body, the appointment of multiple Vicars, or anything else that is contrary to the sanctions of the sacred Canons, are hereby abolished."

The Council of Trent, in Session 24, chapter 46, concerning reforms, decrees that the Chapter, when the See is vacant, is absolutely obligated to appoint or confirm an "Official" or Vicar within eight days after the death of the Bishop of Usküb, who must be at least a Doctor or Licentiate in Canon Law, or, if that is not possible, someone who is otherwise as suitable as possible; if this is not done, such appointment shall be referred to the Metropolitan. And if the Metropolitan Church itself is vacant or exempt, and the Chapter, as stated, is negligent, then the senior Bishop from the Suffragan Sees in the Metropolitan province, and the nearest Bishop in the exempt territory, may appoint suitable persons as Deacon and Vicar.

Therefore, concerning the first question, whether the appointment of a Vicar who is not a Doctor or Licentiate in Canon Law is invalid, even if the elected Bishop was previously a Vicar, especially when at least one member of the Chapter is of that degree, I shall examine this matter more carefully and pursue it more thoroughly.

Indeed, there are ancient decrees concerning this matter in the Sacred Order, which seem to contradict each other. In Tarragona, in the year 4590, it is generally stated: "An election is invalid if someone, other than the Doctor, is chosen from the Chapter, even if he is more senior, and the power to elect shall revert to the Metropolitan or the nearest Bishop, according to chapter 16, session 24," as found in lib. dec. 6, page 404. Similarly, in Lanciano, on August 4, 4668, in lib. dec. 26, page 59, it was decreed: "A new election of a Capitular Vicar must take place if the elected person is not a Doctor, as there is one present in the Chapter, according to the prescription of the Holy Council." Nor is it different in Mazaria, on December 4, 4569, as found in Recineta, Vicarii Capitularis, September 4, 4768, §. For in it, it declared: "The Archbishop must give the Chapter a period of eight days to elect a Doctor as Vicar; if he has not elected a Doctor, then all power of election is transferred to the Archbishop. And likewise, in Trivento, in

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December 4, 4586, in lib. decret. 4, page 211, it was again declared: "Doctors or Licentiates must be chosen as Vicars, if there are any in the Chapter; if not, someone as suitable as possible must be chosen." Other similar resolutions are found in the aforementioned Recineta, in the year 4768. And it is added in §. Quod servandum, that the Chapter's power is restricted, so that a Doctor must be chosen absolutely, even if only one is available.

[*Latin ed. p. 449*]

It is declared from the bosom of the Chapter, in the two aforementioned decrees; and furthermore, a Doctor ought to be chosen outside the Chapter, if none exists from the bosom of the Chapter, following the example taken from Tricarico, year 4592, in the book of decrees, 7, page 44. And in the aforementioned Recineta, §, Constantly, it appears that elections of this kind, of a non-Doctor, omitting those with a degree, have generally been rejected by the Sacred Congregation, with numerous decrees presented in support of this. However, the doctorate is required by necessity in canon law, and those competing, whether in civil law or in sacred theology, or in any other faculty, are rejected; and furthermore, this degree must be obtained in a public university, and not otherwise, as is affirmed in the aforementioned Recineta, §§. Indeed, and furthermore, where also several decrees of the Holy Order are presented concerning this matter. "Several resolutions exist to the contrary, in which the election of a non-Doctor, despite the complaints of Doctors, has been confirmed. Thus, it is acknowledged that, in older cases, in Carinola, on September 22, 4744, a deputation of the Capitular Vicar by the Chapter was considered legitimate, despite the rejection of a Doctor, whom the Metropolitan had meanwhile appointed by right of devolution. The same was maintained in Leopoli, on January 44, 4736, in which the General Vicar of the late Bishop was rightly appointed, and, since there were no Canons with a doctorate present in the Chapter, as is noted in the sacred Congregation's Acts, volume IV, section XLV, number XII, 449, he received confirmation from the Holy Order, although he lacked a doctoral degree. And similarly, the Vicar of the deceased Bishop, although not a Doctor, indeed being an outsider to the Diocese, was considered legitimately elected by the Chapter with a greater number of votes, despite the complaints of other Canons, who were found to be Doctors in either philosophy or theology, in Tivoli, on April 14, 1764. In Sorana, on November 24 of the same year, 1764, the election of a General Vicar with a degree was confirmed, although one Doctor in canon law existed among the Capitulars, and this one had been appointed by the neighboring Bishop, contrary to the Chapter's election. Indeed, the Sacred Congregation declared otherwise in Melphi, on September 9, 4594, in the book of decrees, 8, page 64: "It is not necessary that the Vicar be chosen from the bosom of the Chapter, but, all other things being equal, a Capitular should be preferred; and, if Doctors or Licentiates in canon law exist,

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it is sufficient to choose a Doctor or Licentiate in that same canon law, otherwise, one who is, as far as possible, suitable." As is read in Nazarena, concerning the election of a Capitular Vicar, on September 44, 4747, in the book of decrees, 67, page 374: and a similar declaration can be read in Neritona, on July 24, 4643, in the book of decrees, 47, page 209, in the aforementioned Tivoli, year 4764, §, Sacred Congregation. Among these, another decree is found in Acerna, on February 27, 4709, 29.

[*Latin ed. p. 450*]

450 APPENDIX XII. book 10, chapter 59, page 55, in which, although elected by a majority of votes from the Chapter, which had exercised the office of General Vicar of the deceased Bishop, and although not holding a doctorate, and after a canon, a doctor, had protested, the Metropolitan Curia had appointed this person, setting aside the other; the Holy Congregation decreed: "Neither election shall be upheld," and ordered that the vicariate be exercised by the archdeacon of the same Chapter, in the name of the Holy See. For a smaller part of the Chapter, even if it elects someone possessing the qualifications required by the Council, never legitimately completes the election in this matter, if the majority is absent, or if those present are not qualified. As the Sacred Order has declared on several occasions, it rejects both elections, as in Aliphana, July 8, 4702, book 10, chapter 52, page 266, and in Nazarena, September 44, 4747. Indeed, even equality of votes is not sufficient, as learnedly demonstrated by De Ianua, on Church Visitations, question 13, section 2, number 47. "In this case, although there appears to be a discrepancy in the resolutions, it seems necessary to inquire what is the true opinion of the Sacred Order, and which is the more accurate interpretation of the Council's decree. For some Doctors interpret it in such a way, adhering to the particular resolutions of the Sacred Order, that the General Vicar of the deceased Bishop is indeed to be considered qualified by the Council, so that he can be elected as Chapter Vicar, without any distinction being made between Doctors and those who are not Doctors, or whether he himself is or is not qualified. And there are, especially among the more recent ones, those who believe that, even if there is only one Doctor among the Chapter members, that person should necessarily be appointed as Vicar, citing some older decrees of the Sacred Order, although these decrees do not seem to have been properly understood. And they also assert, as if it were certain, that the election is void if the Vicar is chosen outside the Chapter, whenever someone equally suitable can be found within the Chapter." But all of this is asserted too confidently and without careful examination and judgment, and seems to be alien to the correct meaning of the Council's decree and the intention of the Sacred Order. For it is clear to everyone that the decrees of the Holy Congregation are issued after careful consideration of the particular circumstances of each case, and that these circumstances rarely present an

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exact parallel to similar cases. And therefore, it follows that they do not constitute a general rule applicable to all cases: this observation eliminates the apparent discrepancy or contradiction, and it also undermines the too facile reasoning of those who, drawing abundantly from these particular decrees, presume to establish a universal rule. "As for the General Vicar of the deceased Bishop, it does not seem that he can be appointed as Chapter Vicar solely on the basis of this fact, if there are Doctors or Licentiates in the Chapter who are qualified and suitable to exercise the office. For, according to the Council's text..."

[*Latin ed. p. 451*]

APPENDIX XII. In this matter, the Council also requires that the same degree be possessed in the case of a newly elected official as in another, and indeed, strictly speaking, I believe that the Council should primarily demand this qualification from the General Vicar, because the relative pronoun immediately follows the words in which mention is made of the Vicar of the Bishop – or, at the very least, he must be confirmed to possess at least the degree of Doctor or Licentiate in Canon Law, for the reference is to the nearest [person]. And this interpretation certainly agrees with the practice that prevails in the Most Holy Order of Bishops and Regular Canons, from which, as noted by Cardinal de Luca in the notes to the Council of Trent, discourse 34, paragraph 4A, "when recourse is had to it," it is "customary to demand that the Bishop have a Doctor as General Vicar and not a diocesan [priest]: so that this qualification, although not required by law in the General Vicar, as noted there by Cardinal de Luca, is, for the most part, presumed to be present in him, especially for the reason that the same author states there – that, since the Vicar is appointed to administer justice and to decide both civil and criminal, and mixed, cases, he must therefore be versed in that faculty which is necessary for this purpose, namely, in both laws, or at least in Canon Law." Hence, if the General Vicar possesses a degree, just as some of the Canons do, then the Council seems to grant the faculty of electing a Canon to the Chapter, provided that he is not otherwise qualified.

However, if a General Vicar who does not possess a degree, and other qualified and suitable individuals, are present in the Chapter, I would rightly consider that the General Vicar should not be elected solely on the basis of having performed the duties of the office, and that such an election in that case could be annulled by the Metropolitan or the nearest [bishop], if anyone were to appeal, as was declared in Campania, April 4, 1637, in the book of decrees, page 503. In this matter, there is a doubt: Whether the appointment of a General Vicar of the Bishop who is not a Doctor can be maintained, even if Doctors are present in the Chapter, or rather, whether the right of appointment belongs to the Metropolitan. The Sacred Congregation responded: The appointment is null. However, the opposite

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rule and just reason applies if either no one in the Chapter is decorated with a degree, or if only one such person is found: then, after the election of a General Vicar who is not a Doctor, the election must be maintained, unless some other cause, and indeed a serious one, is recognized that makes him less suitable for the governance of the Diocese. For among other suitable candidates, the Council expressly designates the General Vicar of the Bishop, in whom, indeed, greater suitability is presumed to be present, as appears from De Genoa, loc. cit., paragraph 47; nor can the mere existence of one Doctor in the Chapter prevent such an election, otherwise depriving him of the freedom of election, as I will soon show more fully.

[*Latin ed. p. 452*]

452 APPENDIX XII. "Furthermore, this rule must also be observed whenever, even though there may be several individuals in the Chapter with higher degrees, none of them possess the suitability, knowledge, and prudence necessary to perform such an important office. For the quality of being a Doctor is a purely external one, which does not always imply knowledge, and even less does it imply integrity, prudence, and the suitability required for the exercise of the office. And therefore, nothing seems more contrary to the intention of the Fathers of Trent than if someone is chosen to govern a diocese who is merely a Doctor in name, or who is indeed a Doctor in terms of knowledge, but is unsuitable either in morals or in prudence, while another is overlooked who, although lacking the external qualification of being a Doctor, certainly possesses prudence, knowledge, and integrity, as is repeatedly stated in the aforementioned Recess. Furthermore, see what is stated in the writings of Cardinal de Luca, cited above, in discussion 34, paragraph 1, in the notes on the Council of Trent. There it says: "Moreover, it is necessary to consider more carefully the qualities of such Doctors, because they may be Doctors, but not Doctors [in the sense of being suitable]; as frequent experience teaches; or they may be young, inexperienced, or immoral, or infamous, or imprudent, or otherwise unfit for that office, which, viewed in terms of its effect, is an Episcopal one... And therefore, it is not a matter that admits of a certain and general rule applicable to each case; but rather, it must be decided according to the circumstances of each individual case. Therefore, the Holy Congregation of Bishops, which frequently deals with such matters, when an appeal is made against the election of a Doctor, disregarding Doctors, does not proceed abruptly to annulment, but writes for information and hears the parties involved; and in order to ascertain that the process has not been properly conducted, it orders that the election be repeated, or it itself appoints a Vicariate Apostolic." These observations are further elaborated by this most distinguished author, who is also very familiar with the practice of the Roman Curia, in discussions 25 and 35, paragraph

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1, concerning the canons and chapters. Furthermore, he also notes that the license, which in Italy is not usually separated from the doctorate, is often obtained in Spain through a solemn examination in a public university, which is equivalent to the degree of doctorate in Italy; and there he himself adds that the Council, having carefully considered the customs of the Spanish, presented an alternative to our matter: the doctorate or the license. I have noted this in passing, if it seems to have any relevance to the present question. Thus, the various decrees of the Holy Order must be understood, so that their apparent discrepancy may be resolved. Hence it happens that sometimes the election of a..."

[*Latin ed. p. 453*]

X xii. Those who have not received degrees may be rejected, even if they have obtained a greater number of votes, and even if only one, or even no, Doctor is present among the Chapter members, as in Acermen, cited above, in the year 4709; and conversely, it has sometimes been approved in the presence of several Doctors, as in Leopolien, in the year 4736, and in similar cases. For it may happen that the elected candidate is either not at all suitable or prudent, or, conversely, that Doctors are found who are in no way suitable for governing the Diocese, even if there are several of them among the Chapter members; in such cases, the election of a General Vicar, or of another, even if not a Doctor, has been deemed most prudent and legitimate. "However, it seems that one should not depart from the order established by the decrees of the councils, provided that the candidates are suitable. Indeed, it must always be observed in practice that Doctors and a General Vicar of equal rank should be admitted in both cases, or at least in canon law, provided that they are worthy and suitable; and if no such person with a degree is available, then another, who, after careful consideration, is deemed most suitable for governing, may and should be appointed as Chapter Vicar: in which case, it is not disputed that the Chapter may also assign a consultant, a Doctor, or a truly learned person, either in canon law or in theology, to the elected Vicar, as may be required by the relative lack of expertise of the elected person; and this person may choose an assistant for himself, if he is not appointed by the Chapter, as in Ventriglia in practice, Rer. notab. part. 2, ann. 45, § 2, n. 43, and in the preceding passage concerning Genoa regarding visits, dub. XIII, sect. 2, n. 46, and in Monacen, tom. 4, form. 2, tit. 4, n. 27. Thus, the rule must be observed that the faculty of electing someone who is not a Doctor should be considered only as a subsidiary, namely, when either Doctors are lacking, or when the necessary suitability and prudence are lacking in those present. Indeed, the words in the council text suggest an alternative, not an option, so that the Chapter cannot proceed to the second alternative except as a subsidiary and in the absence of the first, as is taught by the unanimous opinion of Ventriglia, loc. cit., Leuren, de Vicar. gu. 557, Fermosin, de cap.

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sed. vae. qu. 9, n. 42, and Card. de Luca, in the places cited above." This concerns the General Vicar regarding the principal question. But what some more recent authors assert, namely, that it is necessary to elect a Doctor, otherwise the election is invalid, even if only one is present in the Chapter, does not seem to agree with the intention of the Fathers of Trent, nor with the nature of the law of election, and even less with the practice of the Sacred Congregation. It is to be presumed that the most eminent assembly of Fathers intended that the governance of the Diocese be entrusted to the Chapter, which would recognize in the candidate someone who excels in knowledge, prudence, and integrity; for this is the very essence of the office of such a weighty task. This could not be accomplished if a Doctor, being the only one present, were necessarily to be elected, since in that case, there would be no faculty for the Chapter to choose merit and greater

[*Latin ed. p. 454*]

APPENDIX XII. Concerning the examination and selection of candidates. This interpretation is increasingly confirmed by the nature of the election. For this process to function properly, it is absolutely necessary that there be a certain freedom or latitude in choosing one person from among several, and not fewer than two. If only one Doctor exists, and he must be chosen, then the act of free election is nullified. Therefore, it seems reasonable to conclude that the Chapter is not obliged to choose a Doctor if only one exists; and by the same reasoning, this must also be affirmed regarding the Vicar General of a deceased Bishop, if only one such person exists, and even more so if, due to a lack of qualified individuals in the Chapter, such a qualification is lacking even in himself. "This is a constant discipline of the Order, as testified by the eminent canonist Cardinal De Luca in his notes on the Council of Trent, cited above, section 34, paragraph 40. "There, "The Vicar must be appointed who is at least a Doctor of Canon Law or a licentiate, "but if fewer (when there are not so many qualified individuals in the Chapter as to allow for a proper exercise of the freedom of election), the appointment is invalid, as has been declared by the Holy Congregation on several occasions; otherwise, if there are no qualified individuals in the Chapter in the aforementioned number, even though qualified individuals exist in the city or diocese, the Chapter may indeed appoint someone from among them, but is not obliged to do so; therefore, in such a case, the Chapter may lawfully appoint someone from among its members, even if that person is not a Doctor." This is further confirmed by the same author, numbers 47 and 20, and by Canon and Chapter, section 24, paragraph 4, and section 33, number 5. This clear understanding of the Order's opinion and discipline is demonstrated by decrees in which, either the election of a non-Doctor was considered legitimate, after having set aside the only Doctor present, as in the cited document from Carinolen, year 1474, or the complaint or appointment made by the Metropolitan

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regarding the election of a non-Doctor who was less qualified, or the unique Doctor, was rejected as invalid, as in the cited documents from Aliphana, year 1472, Acernen, year 1479, and Nazarena, year 1477. "I consider a different opinion, held by some more recent authors, to be less acceptable and less true, who assert that the election of a Capitular Vicar, made by someone from outside the Chapter or the Diocese, is invalid due to a flaw of nullity, if another equally suitable person, Doctor or not, could be found in the Chapter. For the Council does not prescribe anything, either directly or indirectly, regarding the election of a Capitular, or a citizen, or a diocesan, so that absolutely nothing prevents a Doctor from being legitimately elected from outside the Diocese, indeed, even a non-Doctor, who is otherwise qualified, if no one or only one qualified individual is found in the Chapter who has a degree from a public University. Indeed, the Council seems implicitly to have not disapproved of the practice of legitimately choosing someone from outside, as long as the words of the Council regarding the Vicar General..."

[*Latin ed. p. 455*]

XII. The Bishops, confirming [a candidate], often mention that he is, for the most part, a person from outside the diocese, and should be chosen according to the established legal procedures. Thus, the esteemed Cardinal De Luca, in his notes on the Council, cited in disc. 31, n. 20, writes: "Although the Holy Congregation praises the practice of appointing, from among those who are already ordained or otherwise suitable, someone from the Chapter or from the clergy of the Cathedral, if a suitable Doctor is chosen from outside the Chapter, the validity of the act does not thereby become invalid. Indeed, the Council itself suggests this, when it speaks first of the confirmation of the General Vicar of a deceased Bishop, who, in larger dioceses, should be considered as someone from outside [the diocese] due to the more frequent need for such a replacement. Indeed, it seems more advisable, as I have often experienced, because in this way factional divisions are reconciled, by taking a third party who is not aligned with either side; and also because that superior is more readily recognized and respected, who is not from the Chapter, and therefore his opinions are less readily dismissed, whereas that person who is constantly seen in the choir and in the sacristy, wearing the canonical habit, and serving in the divine office in his assigned place, may be undervalued; and also because disagreements that frequently arise in current affairs and in the proceedings of the Chapter are avoided, when one of their own is appointed as superior, according to the general axiom that it is difficult to serve and obey one's equals. In this passage, the Author further explores the issue. "For it is commendable on the basis of a posteriori argument, or from its effects, so much so that it might perhaps pass into a precept (the advice of appointing someone from outside), because in this way many inconveniences would be avoided." The

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above is confirmed in disc. 24, n. 5, and disc. 25, n. 4, concerning Canons and Chapters. This opinion is unanimously followed by prudent Doctors, including Ventriglia, loc. cit., adn. 45, n. 2, n. 44; Leuren, de Vic., q. 556, and de Genoa, de visit., dub. XIII, sect. 2, n. 20. There, however, all the aforementioned agree in this regard: that, all other things being equal, a Canon or other suitable person from outside should be preferred; as indeed the Holy Congregation of the Council decided in Neritonen, July 24, 1643, the text of whose declaration is given in Tiburtina, April 4, 1664, §. In that Holy Congregation, the legitimate election of a General Vicar from outside the diocese was judged. From these considerations, it seems to me that the answer to the first question is clear: that, if there are in the Chapter a sufficient number of ordained individuals who are suitable for governance, one of them should be chosen; with the understanding that, with regard to the validity of the election, a General Vicar of a deceased Bishop, who is equally ordained, or another Doctor from outside, can be confirmed, provided that there are no suitable individuals within the Chapter. However, if there are no ordained individuals within the Chapter who are suitable for governance...

[*Latin ed. p. 456*]

456 APPENDIX XII. The quality of being a Vicar General of a deceased Bishop suffices, even if that quality lacks a degree, provided that the degree confers no special privilege. However, if there are no members of the Chapter who possess a degree, or if those who do possess a degree are lacking in suitability, it is permissible for the Chapter to appoint someone who is not degreed but is otherwise suitable, either from within its own ranks or from outside, and to confirm the aforementioned Vicar General, who is endowed with virtues, even if he is not a Doctor. Furthermore, it is entirely within the power of the Chapter, even if only one member is present who has received a degree in a public university, to ensure that the freedom of election is preserved. However, a degree is required by canon law, so that a degree in civil law or in other disciplines is not sufficient.

These matters, having already been concluded and, as it seemed, confirmed by the most solid arguments, after careful and extensive discussion by Doctors, both ancient and modern, with opinions divided on both sides, it happened that a certain Resolution emerged from the authentic and hitherto unpublished collections of ancient Resolutions of the Holy Order, concerning the election of a single Doctor, which appears to conflict with the opinion on this matter that I have recently expounded (1). I believe it is necessary to refer to the wording of this Resolution, as it appears in *Decretorum*, book 29, page 456, verso, dated July 3, 1677, concerning the election of a Chapter Vicar, in its entirety.

"For a Cathedral Chapter, in which there exists only one Doctor, the election is not considered valid unless it is carried out in accordance with

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the established rules. Therefore, the following is decided: 1. If there is only one Doctor in the Chapter, but other suitable candidates are lacking, a Doctor must necessarily be elected as Chapter Vicar. 2. Whether or not a Doctor should be elected, even if he is the only Doctor, but according to the knowledge of Canon Law, he is not well-behaved and suitable, while others are endowed with good morals and are suitable. 3. Whether, from the sentence of the judge pronouncing it, an appeal with suspension can be granted if the Chapter has made an invalid election of a Canon Doctor who is suitable and well-behaved in Sacred Theology, leaving the only Doctor in canon law unsuitable and ill-behaved."

The Sacred Congregation, etc., responded as follows to the case in question: To the first question, they answered affirmatively. To the second and third questions, they considered that no answer should be given.

This Resolution of the Holy Order concerning the first question is very troubling to me, especially since it appears to have been issued as a rule, and not as an exception in a specific and concrete case, considering the nature of the election in question, which is a true and proper election in a situation where only one person is being chosen. It is permissible, however, (1) The Jurist who wrote this opinion inserted the following paragraphs up to § Altera, after the opinion was presented to the Sacred Congregation. For, during the discussion, another Resolution of the Sacred Congregation, dated in the Ecclesien on July 3, 1677, was brought up, which this Jurist here refers to and explains.

[*Latin ed. p. 457*]

x xii. It seems to me that, in seeking to discover the truth of the matter, nothing could be observed concerning the aforementioned Resolution, which appears to draw authority from the Senate, except that it does not seem to be of sufficient importance.

First of all, I believe that this Resolution, although it appears to have been proposed as a rule, does not agree with many other Resolutions, in which the election of a Doctor is confirmed, and the complaint of a Doctor is rejected. Although the case concerned was a particular one, and yet nothing was objected to the Doctor, neither against his morals nor against his science and prudence, if the aforementioned Resolution were to be held as an exemplary and firmly observed rule, the complaint of the Doctor would not have been rejected, even in the most peculiar cases.

Furthermore, there is the authority of the most illustrious Cardinal De Luca, who, at the time when the aforementioned Resolution was issued, was frequently present in the aforementioned Church, and with great celebrity discussed such matters and others in the Sacred Congregation of the Council, as the volumes of its consultations testify. In a certain controversy concerning Majorca, regarding the election of a Capitular Vicar, which is dealt with in chapter 33 of the Canons and Chapters, and

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which is similar to the aforementioned Church, both in the article of the question and in the Resolution, it is shown and declared what the Most Reverend Fathers of the Sacred Congregation intended in the Resolutions concerning the Doctor.

After having discussed several things in favor of asserting the election, not of a Doctor, as is stated there in chapter 33, numbers 6 and 7, he concisely summarizes the various parts of the discussion. "Therefore, it is understood that, although many doctors may be present in the Chapter, it is truly the case that there are not doctors concerning literature; or even if there are doctors in literature, they are not endowed with that prudence and experience, nor with those morals and reputation among the people, which are required for such a function; therefore, it is fitting, neglecting them, to choose those in whom these qualities are verified, although they do not have the aforementioned degree. And thus the decree is to be understood, with the aforementioned terms and conditions, namely, that there is not in the Chapter a sufficient number of doctors who may be considered capable and suitable in the aforementioned respects, and with whom the freedom of election remains practicable, so that, by acting otherwise, one would be disregarding the decree, unless, of course, it is done not out of contempt, but out of a just and reasonable motive. And immediately he adds: "The Congregation knew this truth, but, as has been said, for prudential reasons, lest under this pretext the decree be disregarded, it did not wish to depart from the general declarations, saying openly that in contingent particular cases, when it is recognized that these circumstances are present, the election will be approved."

Therefore, I believe that the Resolution should be understood in this way and no other.

[*Latin ed. p. 458*]

APPENDIX XII. The Church Fathers, namely, the interpreters of the Council, intended to explain generally the meaning of the Council's decree concerning the election of a Doctor, as far as that was possible; however, they did not transmit that doctrine absolutely and as a rule. This is also suggested by the prudent reasoning observed in the same question by the Church, where, in the second and third doubts, although a simpler solution seemed to be present, it was nevertheless judged that it should not be answered. "Having carefully considered and diligently examined all these things, if I were to believe that this first proposed question, as well as the others that follow, should be resolved with a certain certainty, and that one should depart from the opinion expressed above, because it is supported by more powerful arguments and reasons, whatever weight may seem to be given to the frequently stated solution in the Church, I would indeed feel this way, unless it pleases the Most Holy Fathers of the Order to abstain from resolving these questions in a general way, as

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has long been practiced, and which I myself did not fail to suggest at the beginning of this consultation. Therefore, assuming this hypothesis, I will pursue the other questions that follow, one by one, as I have proposed, and I will make known my opinion on each of the questions."

"The second question that is proposed, namely, 'Whether and how, considering the particular circumstances, it is permissible for the Metropolitan to confirm or validate the aforementioned election,' seems to be anticipated by the previous resolution. Indeed, if a legitimate delegation from the Vicar General or another suitable person, although not a Doctor, is present, with only one Doctor from the chapter, it is clear that no confirmation or validation is required from the Metropolitan; so that such a question deserves no answer other than 'Provided for in the preceding [section],' according to the style of the Holy Congregation. If, however, one were to inquire about the power of the Metropolitan or the neighboring bishop, if their authority were required, it would seem that they are only permitted to either confirm the delegation made by the Chapter, or to appoint another Vicar who is legally entitled to carry out the proceedings of the Council; but they would never have the power to remedy defects that would affect the substance of the act, or to prevent any detriment that might arise from it. This would belong exclusively to the Apostolic See."

"However, so that nothing may seem to be lacking for a fuller solution of the controversy, I will add a few things that will provide a rule for the Metropolitan or the neighboring bishop in the case of devolution. Devolution takes place from the Suffragan See to the Archbishop, and, when the Metropolitan See is vacant, to the Chapter of the Metropolitan Church, or to the Vicar appointed by this Chapter, as taught by the authority of the Sacred Congregation, Cardinal Peter, in the Commentary on the Constitution *Inter Leges* of Leo IX, section 5, number 36 and following, volume 4, and the attached decree, in *Civitatum Vicariatus* 9."

[*Latin ed. p. 459*]

APPENDIX XII.

1725: In the case where a church is exempt from the jurisdiction of a bishop, the right of appointment devolves to the nearest ordinary, as the Conciliar text clearly states. However, in both cases where the right of appointment devolves, the one exercising it must observe the same procedures, and comply with the same regulations, as would have been required of the chapter of the vacant church, maintaining the method previously described in the response to the preceding question regarding the necessity of appointing a Doctor. For the devolution grants nothing other than the power to supplement the deficiency of the first appointment in the exercise of its functions, as happens most clearly in the case of conditions to

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be observed in the foundation or statutes when conferring a benefice by devolution of right. Indeed, Leuren, on Vicars, question 556, states that "in this case," when the Metropolitan succeeds to the chapter in this election, supplementing the chapter's deficiency, he must appoint the Vicar in exactly the same manner in which the chapter would have been obliged to do so. Here, I do not fail to note that, in order to remove all ambiguity, in the appointment of such a Vicar, the form of secret scrutiny is not necessary for validity, as is noted in de Ianua, loc. cit., n. 20, and as the Holy Congregation formally decided in Sulmona, July 4, 1655, in the book of decrees, 49, page 497, and in Assisi, May 4, 1669, in the book of decrees, 26, page 224, which are cited in Leopoli, January 4, 1736, where the rule was again confirmed in a specific case. However, for a better outcome, in order to avoid more inconveniences, it is advisable to observe the form of scrutiny through secret ballots, as is stated from the judgment of the Holy Congregation in Melevita, in the year 1698, in the book of decrees, 48, pages 474 and 522, and as is noted in de Ianua, loc. cit. Regarding the vote given to oneself in the scrutiny, or, if that is not possible, by way of adhesion, one may consult in the particular case, Cardinal de Luca, on Canons and Chapters, book 2, chapter 24, n. 3, and chapter 26, n. 3 to 9, where he enumerates several cases, and, as always, most learnedly, he also resolves the matter, as does Pignatelli, volume 4, consultation 23, n. 9, and volume 8, consultation 34, n. 9 and 40.

The third question is whether the Metropolitan, if he has made an election, should set a new deadline for the chapter, or whether the appointment of the Vicar by devolution of right pertains to him. Pignatelli, in the aforementioned place, volume 8, consultation 34, n. 8, to the end, discusses this question learnedly and thoroughly. And, with the addition of various reasons, he expresses his opinion in favor of excluding devolution if the nullity of the first election is noted only due to a defect in the appointment of the Doctor, or for a less suitable reason; but he believes that a different solution is required if the eight-day deadline was given due to negligence, or due to the lack of a conclusion to the election, considering the disagreements of those who were choosing, or if the appointment was made knowingly of an unworthy person. I believe that Pignatelli's opinion, in the distinction presented above, should be maintained, both because of the force of the reasons on which it is based, and because of the order of the Holy [See].

[*Latin ed. p. 460*]

460 APPENDIX XII. Concerning declarations of conformity, by which the authority is strengthened. "For if devolution is a penalty, any cause provides an excuse; and if such a penalty is inflicted due to negligence, it should not extend to the case 'as the Author states there, no. 43' in which the act was indeed performed, but not in the proper manner; for it is less sinful in quality than in substance. Nor does it seem possible for the Council to

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prescribe two things – the election of a Doctor, or another suitable person in the absence of a Doctor, and a period of eight days; and, if these are not observed, to impose devolution: thus, so that, if either of these is lacking, there is a place for devolution. For, having established these two things to be fulfilled 'as the Author responds there, no. 19 and 20,' namely, that the election must take place within eight days and that a Doctor must be elected, both must be lacking in order for the imposed penalty to be incurred. And this is declared by the very text of the Council, on the other hand, where it says, 'If the Metropolitan Church itself, or the Chapter, having been negligent, then the former Bishop, etc.; for here mention is made only of negligence in order to provide a place for devolution.' Hence, the Author rightly concludes, 'Therefore, devolution is a penalty for negligence; negligence, however, pertains to the failure to make an election within the time limit, but not to the quality of the doctorate, which is rather a matter of ignorance. This doctrine, indeed, seems very reasonably to agree with the mind of the Fathers of Trent, and with the declarations published by the Holy Order." The Holy Congregation, in Mazarien, December 4, 1569, concerning an election made by the Chapter of a non-Doctor, when several were present, declared, "The Archbishop must grant the Chapter a period of eight days to elect a Vicar in the case where a non-Doctor was elected, and if no one is elected, all the power of election is transferred to the Archbishop," as is read in Recineten, September 41, 1578, §. Quare. And in Lancianen, August 48, 1568, lib. decr. 26p. 59, it is resolved, "A new election of a Capitular Vicar must take place, because a Doctor was not elected, as is required in the Chapter, according to the prescription of the Holy Council." Furthermore, in the same sense, there are accumulated declarations from the Holy Congregation, the Council, and other Bishops and Regular Canons, Pignatell. ult. loc. cit. no. 44 to 48. And from there, no. 20 very well reduces to harmony both the opinions of Doctors who are in disagreement and the declarations of the Holy Congregation which appear to be discordant. Thus, there, "Neither" should they have force "in the contrary," the declaration made on February 24, 1594," and others that agree that, "provided that Doctors are present in the Chapter, it is necessary that one of them be elected, otherwise the deputation will be devolved to the Metropolitan; because, in order that contrary declarations be reduced to harmony, the aforementioned devolution is understood in the case of the election of a non-Doctor, when, after eight days from the remission to the same Chapter, a new election had not been made (Doctor)."

[*Latin ed. p. 461*]

"Furthermore, the actor, as it were, as the aforementioned declaration clearly explains in the Mazara del Vallo archives, number 4569, and in such cases, where no one is elected, or where the term assigned by the Archbishop has expired, etc. Therefore, in this third question, it seems that the

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place is open for appeal, when an eight-day term is given, either because no election has been made due to the negligence of the Chapter, or if someone has been knowingly elected who is unworthy, or finally, if, considering the particular circumstances of the case, a bad outcome can be prudently foreseen due to the disagreements of the parties. With these conditions established, a new election of the Vicar must always be referred to the Chapter, since such a penalty and injustice should not be inflicted, as is stated by Cardinal de Luca in the notes on the Council of Trent, section 54, paragraphs 48 and 49, unless it is expressly permitted by law, and where there is fault that outweighs the offense. Especially since we are dealing with a principal right, which the Chapter has the power to exercise; therefore, it should not be taken away, except in the case of fault that is equivalent to deceit, or negligence in the opinion of the Council. If, in this new term, the prudent Doctor, if there are several from the same group, or if someone else suitable for the administration is not elected, then, in order to be avoided inconveniences for the Diocese, the appointment will be entirely referred to the Metropolitan or the nearest Archbishop.

Now comes the fourth question, namely, before whom should the appeal or recourse be made from the judgment of the Metropolitan? It cannot, indeed, be recalled until an appeal or recourse has been given from the judgment or appointment of the Vicar, by the Metropolitan or the nearest Archbishop, according to the law. However, this appeal must be presented only before the Apostolic See, both from the judgment of the Metropolitan, who has no superior authority except the Apostolic See, and from the appointment of the nearest or oldest suffragan, depending on the circumstances, because these particular and extraordinary faculties, which do not pertain to their own Diocese, may be subject to the Metropolitan or the Metropolitan Chapter when the See is vacant, nor are the nearest or oldest suffragans subject to the jurisdiction of the Metropolitan; therefore, only the Apostolic See must be approached, as taught by Cardinal de Luca in *De Canonibus et Capitulis*, section 25, paragraph 2, from the Resolution of the Holy Congregation in Callipoli, in the year 4699. Here, it should be noted that an appeal or recourse of this kind does not have a suspensive effect, but is admitted only in the process of appeal, as stated by the same Cardinal de Luca, *loc. cit.*, section 25, paragraphs 6 and 7, and in the notes on the Council of Trent, section 34, paragraph 27, according to the rule that all things that require speed and do not tolerate delay or postponement without irreparable prejudice (as in the case of the administration of a vacant Church) do not admit a suspensive appeal, as the aforementioned author warns in the words he has used, section 25, paragraph 6."

[*Latin ed. p. 462*]

462 ADDENDUM: "These matters proceed according to the ordinary [rules]. However, in Hispania, a special exception applies due to the ex-

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istence of the Apostolic Nunciature Tribunal, which hears appeals from the Rota, based on a concordat between both Powers, which has been in force from the past and remains so in its original institution. This Collegiate Tribunal, presided over by the Apostolic Nuncio, Clement XIV, and King Charles III of the Spaniards, possesses the jurisdiction to render judgments in the second instance regarding appeals from sentences pronounced by the Metropolitan in the first instance, concerning any ecclesiastical matter, and to definitively judge the same cases in the third instance, which were previously heard before the Suffragan Bishop, and which were defined in the instance of appeal before the Metropolitan Curia, in a varied manner. Therefore, there seems to be no doubt that the same jurisdiction applies to this Tribunal regarding appeals from the judgment of the Metropolitan and the neighboring or older Bishop, as was the case in Sardinia, as long as the Apostolic Delegate Judge remained there, and similar cases are found in Turritana, concerning the Vicar Capitular, on November 20, 4723: 'with the right of appeal to the Apostolic See in the event of conflicting judgments, and always preserving the right of appeal or recourse solely in a devolutive manner.'"

"Finally, it remains to briefly address the question proposed in the fifth place: namely, how provision should be made if a deputed Vicar, without anyone objecting, deserves removal due to poor and harmful administration of the Diocese, or for another serious reason. Although it was formerly within the power of the Chapter to temporarily depute a Vicar, and to remove a deputed Vicar without a predetermined term, today, in order that the proper governance of the Church may be better served, according to numerous decrees of the SS. Congregations, the Council, and the Bishops, the Vicar must be deputed for the duration of the entire vacancy, and once legitimately deputed, he cannot be removed from office any longer, unless a serious and legitimate cause is first recognized and proven before one of the aforementioned Congregations. This is unanimously taught by the Doctors, and among others, Ventriglia in *prax. part.* 2, adn. 45, § 2, no. 23; Leurenius *de Vicar.*, q. 646, no. 2, and *de Ianu* *de visit.*, dub. XIII, sect. 2, n. 45, § 2, with Pignatell, tom. 4, *Consult.* 23, no. 40, who enumerates several causes that might suggest a legitimate removal of the Vicar, if, however, the Sacred Congregation judged them to be weighty based on the facts. The strength of these opinions is added to by the SS. Congregation in the decree of Leopoldien, January 4, 4736, §, *Adversus et in respons.* to 2 dub. in Elven, *Iurisd.*, December 4 of the same year, §§, Second and Third, and elsewhere frequently.

"These authors nevertheless consider the case of deputation made by the Metropolitan by force of devolution."

[*Latin ed. p. 463*]

APPENDICES, x xii. affirming that the Archbishop possesses the faculty

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of removing the Vicar appointed by him, which must be done, in that case, with the authority of the Holy Congregation, citing a certain decree of the Holy Congregation on this matter in the aforementioned places. However, this faculty is so restricted that it pertains only to the person of the Archbishop. And indeed, in Civitatensis, the Holy Congregation, on June 9, 1725, confirmed the removal of the Vicar of Civitatensis, appointed by the Metropolitan of Turrita, by the Chapter Vicar of Turrita, after the death of the Archbishop. In that case, the most illustrious Lambertini, who at that time held the office of Secretary and who, after that, was elevated to the pontificate and enriched the ecclesiastical and canonical province with so many writings and universal erudition, vehemently refuted the opinion here presented, as follows: "Without any relevance, the response that these [prohibitions regarding the faculty of removal] apply to a Vicar elected by the Chapter and not to a Vicar elected by the Metropolitan, first, because this distinction is based on a certain decree of this Holy Congregation which is alleged by the authors but is not found in the records; secondly, because the same reason is urged, namely, the undeserved infliction of disgrace upon the Vicar, whether he is elected by the Chapter or by the Metropolitan. Therefore, it seems fitting to say that a Vicar, once elected, whether by the Chapter or by the Metropolitan, cannot be removed, nor should he be, by any of the two Holy Congregations or by the Council of Bishops, without a just and serious cause recognized and approved by both, which, unless it is fully established, the most severe penalty of removal should never be pronounced, as the Holy Congregation taught in Vintimilien, on December 2, 1725, in which, although something less than proper had been found in the appointed Vicar, nevertheless, it did not decree removal, but only wished to admonish both the Vicar and the Chapter because of the dissensions that had arisen between them." Therefore, it must be considered in this situation, taking into account the particular circumstances of the place and the urgent necessity of provision, as mentioned in the reports of the Apostolic Nuncio, whether anything should be waived from the aforementioned legal and practical arrangements. In my opinion, one should abstain from introducing any novelty in this matter of such importance; therefore, one should not deviate from the most prudent practice and discipline established and hitherto observed, so that such complaints should always be presented to one of the aforementioned Congregations, of which the Holy Council Congregation is to be preferred, to which, indeed, it seems more appropriate, if not exclusive, to issue a decree concerning competence, and otherwise, the removal of the Vicar should not be decided upon except after a just and serious cause has been fully and conclusively discussed and proven before the Holy Order.

[*Latin ed. p. 464*]

464. [X Xii. "For, indeed, either particular reasons of the Kingdom might

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otherwise truly suggest it, or a notorious defect of the appointed Vicar, and consequently an urgent need, might arise, so that, lest the administration of the Diocese and the spiritual good of souls suffer damage, or scandals arise, a certain exception, for the sake of the circumstances of the case, would not entirely be rejected. Indeed, it might be granted to the Apostolic Nuncio to appoint another suitable Vicar, of unimpeachable reputation, who would administer in the name of the Holy See, with the power of the Capitular Vicar suspended, and his jurisdiction likewise suspended, but always with the Apostolic Nuncio being strictly mindful, both of the notorious truth and the gravity of the reasons that necessitate this extraordinary provision, and also of the urgent need for it; provided, however, that the right of the Vicar suspended from the exercise of his office to bring his rights before the Holy Congregation is preserved, and that the Nuncio himself is bound to inform the Holy Congregation without delay of the provision made, with a full exposition of the reasons and grounds that led to that provision. This could indeed be accomplished through a special instruction transmitted to the Apostolic Nuncio, in which the answers to each of the questions proposed would be given, so that everything may be approved by the most wise judgment of the Holy Congregation, to which I gladly submit this consultation, or, with suitable amendments approved by the Holy Order, they would be communicated to the same Nuncio, as is fitting."

DOUBTS:

I. "Whether and how the appointment of a 'Capitular Vicar,' and not a Doctor or Licentiate in Canon Law, is permissible, if the Vicar General of the late Bishop has been elected, but lacks the necessary degree, if at least one member of the Chapter is so graduated." And, to the extent that it is affirmative.

II. "Whether and how, considering the particular circumstances, it is permissible for the Metropolitan or the nearest Bishop to confirm or ratify said election."

III. "Whether the Metropolitan or the nearest Bishop, if the election is disapproved, must set a specific deadline for the Chapter, or rather, does the appointment devolve by law upon him?"

IV. "Whether and how there is a place for an appeal or recourse from the judgment of the Metropolitan or the nearest Bishop."

V. "Whether and how provision should be made, so that, even if the appointed Vicar does not appeal, he may be suspended or removed for office for a serious and harmful administration of the Diocese, or for other grave reasons."

RESPONSE:

The Holy Congregation, after deliberation in the meetings held on January 20, 1862, considered it fitting to respond: "It will be provided for in

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particular cases."

[*Latin ed. p. 465*]

465 FROM THE SACRED CONGREGATION. CONCERNING THE VALIDITY OF THE BREVIARY AND MISSAL OF THE CISTERCIAN ORDER. December 5, 1868. We report the matter, which, concerning the entire Cistercian Order, has suppressed and extinguished the anxieties and doubts that had arisen in recent years in many parts of the world regarding the legitimacy of the Cistercian Breviary and the liturgical method hitherto observed by them. In this matter, although we strive to be concise without detriment to the cause, we cannot refrain from presenting in their entirety the principal documents that, although directly pertaining to the present cause, also illustrate the historical and liturgical discipline after the reform of the Roman Breviary. Due to the questions already raised among the Cistercians, in the year 1854, the Superior of the Abbey of Saint Bernard in Belgium, which at that time was under Apostolic Visitation, presented the following petitions to the Most Holy Father. "MOST HOLY FATHER, Robert Van Ommeren, Superior of the Abbey of Saint Bernard of the Cistercian Order in Belgium, humbly prostrates himself before Your Holiness and presents the following: 1°. The Cistercian monks in Italy have used a monastic Breviary and Missal since the year 1618, which were recently approved at that time by Pope Paul V. 2°. Outside of Italy, that is, in Germany, Bohemia, Hungary, Switzerland, Spain, Portugal, Belgium, France, England, Ireland, and America, both male and female Cistercians, of both the stricter observance (the Trappists) and the common observance, use a Breviary and..."

[*Latin ed. p. 466*]

466 OF THE CISTERCIAN ORDER. The Cistercian Missal, which was published by the General of the Cistercians, Claudius Vaussin, around the year 1650.

3°. This Breviary and Missal of the Cistercians are considered to have been approved by Alexander VII by the Constitution *In Suprema* for the reform of the Cistercian Order (see the Roman Bullarium). In this Constitution, § 17 states that in all monasteries, the same rite must be observed in the Mass and in the Divine Office as is observed in the Cistercian Abbey.

2°. By Clement X in the year 1669, through the Constitution *Ecclesiae Catholicae*, which confirms the decrees of the General Chapter of the year 1667, among which decrees is found one that prohibits any change in the new Breviary, and which prescribes the use of this Breviary to all members of the entire Order.

4°. In this Cistercian Breviary and Missal,

1. Almost all the feasts are lacking which, from the time of St. Pius V until today, have been extended by the Supreme Pontiffs for both the clergy of

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the entire world.

2. Several feasts are found therein which are celebrated with a lesser rite than that prescribed today by the Decrees of Rome and the world.

With these premises, the following questions are posed:

1. Whether Cistercians outside of Italy are obligated to add to their Breviary and Missal all the feasts which have been prescribed for both the clergy by the Holy See through Decrees of Rome and the world?

2. Whether the feasts which, in the aforementioned Breviary and Missal, are celebrated with a lesser rite than that prescribed by the Decree of Rome and the world, are obligated in the future to be celebrated with a greater rite?

And, to the extent that the answers to both questions are affirmative, the Advocate pleads for the Cistercians of both sexes of common observance in Belgium, that the Holy See would deign to exempt them from this obligation, and to grant that they may continue, as they have done until now, until something is established generally for the entire Order.

The reasons why this grace is requested from Your Holiness are as follows:

1. If all the feasts, of which mention has been made in N-4, must be added to the Breviary or celebrated with a greater rite, then the Breviaries, Missals, Graduals, and Antiphonals, which have been purchased in recent years at so much expense, will no longer be useful, but all new ones will have to be printed.

[*Latin ed. p. 467*]

OF THE ORDER OF CÎTEAUX. 467 § 2°. In this case, the Office of the Dead, which is customarily recited by the Order on weekdays, must cease. § 3°. On double feasts, which are almost all, the community is obligated to celebrate two Masses, one Matinal Mass and one High Mass, and thus the discipline and observance will become much more burdensome and demanding for the monks, and the time dedicated to studies must be greatly reduced. § With these reasons in mind, the petitioner implores that the requested grace be granted. DECREE From the Audience of the Most Holy [Pope], on June 1, 1854. "The Most Holy, having considered the matters presented, and moved by other particular circumstances, and referring to the written communication from the Secretary of the Congregation of Sacred Rites, benignly grants the special grace, so that, from now on, the manner previously observed in the recitation of the hours may be maintained in fulfilling the obligation of the Divine Office, without, however, this being approved until the present Apostolic Visitation of the Order is completed, after which a complete and permanent calendar will be presented, sanctioned in this matter by the Most Holy Popes Alexander VII and Clement XI, the Breviary of the Most Reverend Cardinal Bona having

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been completed, as well as those things that may be sanctioned in this Visitation regarding the same, and afterwards, provision will be made by another Decree. Contrary opinions notwithstanding." Dom. Gigli, S. R. C., Secretary in place of the Seal. This Decree, which had suspended the judgment of this case, provided a new opportunity for such controversy to arise, since there were some who sought innovations, while others considered the use of the Cîteaux Breviary and Calendar to be illegitimate; many, on the contrary, maintained that nothing should be changed and defended the legitimate part of the Cîteaux liturgy, among whom were not only Cîteaux prelates of common observance, but especially the Trappists.

[*Latin ed. p. 468*]

468 OF THE CISTERCIAN ORDER. When the question was raised with great urgency due to certain decrees issued by the Most Holy Congregation of Rites in the 17th century, it was deemed useful to present these decrees in chronological order, along with other documents connected to them. Pope Paul V, in the Constitution *Ex Iniuncto* of October 1, 1612, decreed: "Now, since, as we have learned, our beloved sons, the Procurators General of the monks living under the Rule of St. Benedict, having been appointed for the reform of their Order's Breviary and other liturgical books, after long and arduous labors, have reformed the Breviary and such books, and through this reform have ensured that the aforementioned Religious Order will, in the future, recite the canonical hours with a uniform rite... whereas previously they performed different offices; We, highly commending this praiseworthy undertaking, and urging all the Religious of this Order to unanimously accept the reformed Breviary and liturgical books, as mentioned above, and desiring to promote this work as much as we can with the Lord's help, so that a more accurate and faithful edition of the aforementioned Breviary and books may be produced, etc." Thus, he entrusted the edition to the printer of the Royal Printing House and instructed that expenses be kept to a minimum, and then added: "Furthermore, in order that the aforementioned Religious may be more eager to unanimously accept the reformed Breviary and liturgical books, as mentioned above, and may find that they are more spiritually enriched thereby, we also decree that all and each of the aforementioned Religious, by reciting this reformed Breviary, may obtain the same privileges, graces, and indulgences, and remissions of sins, which Our predecessor, Pope Pius V, granted to those who recite the Roman Breviary, according to the authority and tenor mentioned above." In the year 1615, on January 6th, at a time when the aforementioned reformed monastic Breviary of St. Benedict had been published, and since there were Religious houses living under the Rule of St. Benedict who used the Roman Breviary, or another Breviary, it seems that the Holy Congregation was asked whether these monastic families could use the new, reformed Breviary of St. Benedict. And the Holy Congregation

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responded, as can be read in the following decree: "Terraconensis, under the memorial. 'For' the matters contained in the aforementioned memorial were 'presented' to the Holy Congregation, the Holy Congregation considered and declared that all..."

[*Latin ed. p. 469*]

OF THE ORDER OF CÍTEAUX. 469. It is declared that monks and nuns who are members of the Order and who follow the Rule of Saint Benedict, may and ought to use the Benedictine Breviary recently published by the Most Holy Pope for all religious who follow the Rule of Saint Benedict, notwithstanding that some of them have previously used the Roman or another Breviary. This decree was issued in response to the requests of many, and although it declares both the permission and the obligation to adopt this Breviary, the obligation seems to arise both from a certain agreement following the exhortation of the Pontiff, and especially from the need to bring about conformity throughout the entire Benedictine Order, for which reason the Procurators of the Order published this Breviary. However, the most esteemed Order of CÍteaux itself, although it follows the Rule of Saint Benedict, does not use this Breviary. In the year 1656, Claudius Vaussin, the Abbot General of CÍteaux, which monastery is the head of the entire Order of CÍteaux, reformed the Cistercian Breviary, according to the decision of the General Chapter, so that all families of the Cistercian Order should use it after a period of ten years. However, this decree gave rise to complaints in some families of the Cistercian Order in Italy, which led to the following decrees, from which the history of these decrees can be gathered. In the year 1660, the following was published: "Of the Congregation of CÍteaux." The Abbot Hilarión Roncatus, a monk of the Cistercian Order and a meritorious member of the Holy Congregation, presented to the Holy Congregation, that the Cistercian Breviary, ordered to be printed by the Abbot General, had been widely used according to the law that after ten years, no monk should be able to use any other Breviary than the aforementioned one. However, because it differs greatly from the ancient Breviary, especially in the Offices of the Blessed Virgin and for the Dead; the monks, considering their own conscience, deemed it advisable, fearing that such mutilation would be very detrimental to the satisfaction of recitation, and therefore they petitioned that the Holy Congregation would entrust the examination of both Breviaries to one of the consultors, for the purpose of reporting on them in the same Congregation; which was ordered to be done by the Most Reverend Cardinal Franciotto, with the assistance of Father Augustine Tartaglia, and after hearing Father Abbot Hilarión, to report his observations to the Holy Congregation. On January

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24, 1660.

[*Latin ed. p. 470*]

470 OF THE CISTERCIAN ORDER. On July 24, 1660, under the same title, this second decree followed: "The monks of the Cistercian Order of Italy, as suppliants to the Sacred Congregation," requested that it be declared whether, with a safe conscience, they could use the Cistercian Breviary, according to the Roman edition most recently published, and which had been ordered to be recited by the entire Congregation by the precept of the Abbot General, although it differed greatly from the ancient Breviary. And the Sacred Congregation, having heard and been informed by Father John Magloire, the vicar and general procurator, decreed, in accordance with the report of the Most Eminent Cardinal Franciotti, and ordered that the precept for reciting the most recent Breviary be removed, and that the same Breviary be suspended; that a new Breviary be prepared before the Most Eminent Cardinals Franciotti and Estense, and that the same be diligently examined by them for the purpose of referring it to the Sacred Congregation. In the meantime, and indeed after the lapse of the term of the newly granted months, the monks should use the Breviary by which they had previously used before the publication of the most recent edition, or the monastic Breviary approved by Paul V, until the new Breviary is approved by the Sacred Congregation. July 24, 1660.

Again, on March 12, 1661, with the question still under discussion, this decree followed: "Considering the request of certain monks of the Cistercian Congregation, who, fearing for their consciences, sought provision regarding the printing of the Congregation's Breviary, so that they might not lack the ability to recite the canonical hours; the Sacred Congregation ordered, through Father Bonam, Abbot of St. Bernard, and general procurator of Cîteaux, that the most recently suspended Breviary be purged and reduced to the Roman rite before the Most Eminent Lords Cardinals Franciotti and Estense. March 12, 1661.

Finally, on June 23 of the same year, this decree was given: "The Sacred Congregation of Rites declared that the Cistercian monks are included in the decree issued on January 24, 1615, which is printed in the approved monastic Breviary by the Most Holy Paul V; therefore, they must, within one year, adopt the aforementioned monastic Breviary along with the Missal, and they must, both in the choir and outside the choir, use it in the future, although they have hitherto used their own Breviary; otherwise, they will not fulfill the precept of reciting the Divine Office; saving, moreover, that the ancient customs of the Order itself remain in force."

[*Latin ed. p. 471*]

OF THE ORDER OF CÍTEAUX. 471 "It was decreed that daily the Little Office of the Blessed Virgin Mary, ever Virgin, should be recited, and also

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the Office for the Dead on those days on which they had hitherto been accustomed to recite it, but according to the form and rite prescribed in the Monastic Breviary. Furthermore, the Office for the Prior, with its octave of St. Bernard, and the Offices of the Saints, should also be observed, but these should be taken from the aforementioned Common Breviary, according to the ancient and approved custom of the Order, which has hitherto been observed. But because the General Procurator requested a new hearing, it was decided by the Most Reverend Prefect to grant it benignly, and in the meantime, the Decree was not to be made public. On July 2, 1661. This Decree, however, was confirmed on July 28, 1661. Father Bona took care to see that this Decree be entrusted to execution with regard to his monks as quickly as possible; and because of some doubts that arose, this second Decree was issued. The Priors of the Holy Pudentiana and of St. Bernard in Rome presented a case to the Congregation of Sacred Rites, stating that they were compelled, by the precept of holy obedience, by their Abbot General, Father Bona, to recite the Monastic Breviary before the expiration of the one year granted to them by the Holy Congregation; therefore, they declared whether the said General could compel them, and whether they were therefore obliged to obey. The Sacred Congregation responded that the General could and could compel, by his precepts and penalties, both himself and other superiors and monks of his Congregation, even before the expiration of the aforementioned term, to use the Monastic Breviary and Missal in the celebration of Divine Office and Mass, and that all were to be held to obey this precept. Furthermore, since some monks had expressed doubt as to whether, with the use of the Monastic Missal, approved by His Holiness Pope Paul V, they could retain the ancient rites and ceremonies of the Order of Cîteaux in the celebration of Mass, the Sacred Congregation declared that these same monks were entirely to use the aforementioned Missal, and to celebrate both the solemn and the private Mass with the rites and ceremonies prescribed in that same Missal. After these matters were brought to the attention of His Most Holy Name, His Holiness approved, and ordered that they be observed, notwithstanding the constitutions of the Congregation of St. Bernard, and any other contrary regulations. On December 3, 1661.

[*Latin ed. p. 472*]

472 OF THE CISTERCIAN ORDER. After these events, the Cistercians of Galliae requested a certain extension, which, although the Sacred Congregation considered it worthy of being granted, Alexander VII nevertheless denied, as can be seen from the following decree. ''The procurator general of the Cistercian Order instituted, in order to avoid the difficulty which arises daily in the execution of the decree of the Sacred Congregation of Rites, by which it is ordered that the regular canons of the same Order adopt the Monastic Breviary, that the same Sacred Congregation would

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kindly grant the retention of the choral books until the general chapter in which provision could be made for new codices. And the Eminences, maintaining the decree firm, that they should adopt the Monastic Breviary, and in the meantime the choral books should be corrected in those things which are contrary to the aforementioned monastic breviary, considered it advisable to grant the request if His Holiness deemed it proper. On June 3, 1662. "Having been informed by His Most Holy Lordship of the opinion of the Sacred Congregation regarding the petition of the procurator general of the Cistercian Order, namely, that the Sacred Congregation would kindly grant the retention of the choral books until the general chapter in which provision could be made for new codices, His Holiness denied the aforementioned petition in its entirety, contrary to what was prescribed in the decree issued on July 23, 1661. Therefore, the Sacred Congregation, in accordance with the mind of His Holiness, remained firm in its decrees, and the entire Cistercian Order was to be held to adopt the Monastic Breviary approved by Pope Paul V, and to recite it both in the choir and outside the choir, otherwise the precept of reciting the office would not be fulfilled at all, after the lapse of time expressed in the same decree. On July 8, 1662. While these matters were being discussed, questions from certain Cistercian families in Italia, and much more serious and extensive disagreements were brewing in Galliae: and while the Sacred Congregation was striving to establish this one point of the question throughout the entire Cistercian Order, matters were being discussed in Galliae regarding the reformation of the entire Order, as will be mentioned below. Claudius Vaussin, who had finally been elected by the Cistercians of common observance as the general abbot, in addition to the reformation of the Breviary, of which we have spoken, considered articles for the complete reformation of the Order, which could be reconciled with those of the monastery.

[*Latin ed. p. 473*]

OF THE ORDER OF CÍTEAUX. 473. Those who observed common observances, and who rejected the excessively rigorous reform, did not seem to have much concern for the questions that had arisen in Italy against the reform of the Breviary which he had instituted. Finally, the matter came to such a point that on January 16, 1662, he was able to obtain from Alexander VII. Apostolic Letters by which the Holy Father summoned to himself the entire cause of the reform of the Order. With this summoning obtained, both Vaussin himself and other Cistercian prelates, among whom there had been disagreements, presented articles of reform to the Holy See. These articles, after being examined by a specially appointed Congregation, were finally approved by Alexander VII. in a celebrated Constitution promulgated on April 19, 1666, which begins with the words "In Suprema." The articles of these Apostolic Letters, which refer to the form of the divine office and the manner of chanting in the Cistercian Order, and therefore can be related

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in some way to the reformed Breviary of which we are speaking, are as follows: "17. This form must be observed exactly, and the material must be taken from the usage of the Roman Church for the glory of God and the edification of the neighbor, as has hitherto been customary in the Cistercian Church, to which all other churches of this Order are bound to conform, as if to a mother, according to the definitions and precepts of the Charter of Charity of Eugene III. and Pius V. In order that this uniformity may be maintained in the performance of the divine office in all monasteries of the Order, all shall use the same rites, chants, and books necessary for the daily and nightly Hours and Masses, according to the aforementioned Cistercian form. 18. In the canonical Hours, the Office of the Blessed Virgin and the Office for the Dead, which are recited and chanted in the choir according to the laudable customs of this Order, all and each shall be present wearing their habits, and the canonical Hours shall be performed with Gregorian chant according to the rule." In these Apostolic Letters, so that the reform would not be merely in words, but real and effective, the same Pope ordered Claude Vaussin to convene, at the first opportunity, a general Chapter to be held at the monastery of Cîteaux in May of 1667, and in that Chapter, a thorough discussion should be held regarding the reform of the Order and the observance of the rule, and regarding the most appropriate way to implement and put into practice the articles proposed for the reform.

[*Latin ed. p. 474*]

47. OF THE CISTERCIAN ORDER. During a time of great flourishing, a general chapter was held, although some were absent, notably the representatives of the Longobard and Tuscan congregations. With regard to our matter concerning the Breviary, the following was established in this chapter: "In order to maintain uniformity in the performance of the divine office in all monasteries of the Order, the general chapter decreed and established that no further changes should be made to the existing Breviary, but that all members of the Order should adhere entirely to it." This chapter decree, after careful examination in Rome by the same congregation that had prepared the articles of reform, was included with the other articles in the Apostolic letters of Clement X, dated January 26, 1669, with the beginning "To the Holy Catholic Church," and was confirmed by the same Pontiff in the form we specifically call it. Nevertheless, after that time, several other decrees were issued by the Holy Congregation of Rites, which in some way relate to the present question of the Cistercian Breviary. It is recorded in the registers of the Holy Congregation that on August 12, 1673, this decree was issued: "Of the Cistercian Order. The Holy Congregation of Rites, adhering to the decree issued on July 23, 1661, by which it declared that Cistercian monks should use the monastic Breviary approved by the Most Holy Father Paul V, retaining their proper office with the octave of St. Bernard, as well as the offices of the Saints taken from the aforementioned

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Breviary, approved the aforementioned proper readings for the Saints by the Most Eminent Cardinal Bona, and granted permission for them to be printed." This was done on August 12, 1673. Another decree followed on July 13, 1675, with these words: "Of the Cistercian Congregation of Italy. The general procurator of the Cistercian Congregation of Italy presented the following: that by this Holy and Supreme Congregation on July 23, 1661, it was decided that they should adopt the Roman monastic Breviary, and that otherwise they would not satisfy the precept, while preserving the ancient custom of the Order of reciting daily the Little Office of the Blessed Virgin, as well as the office for the dead on those days on which they have hitherto been accustomed to recite it; and because..."

[*Latin ed. p. 475*]

OF THE ORDER OF CÎTEAUX. 475. "They declared that, according to this Decree, those obligated to perform the offices [of the Divine Office] ought to continue to do so according to the ancient rubrics of the Breviary, which was prohibited; therefore, with a certain presumption in the form of a doubt, they brought the matter before the General Chapter of Italy, and it issued a Decree which was to be recited only on feast days, in the first days of Holy Week, and during the Paschal season. And, having presented this resolution to the same Holy Congregation in a recent meeting for confirmation, they received the reply: "Read." To this response, the aforementioned procurator, not agreeing, repeated that the rubrics were incompatible and did not fit the new Breviary, and therefore, the matter was referred to the Most Reverend Cardinal of Kolomna, who again supplicated for the confirmation of the resolution of the General Chapter, or for its reduction to the new Roman Breviary. And the same Holy Congregation, after hearing the Most Reverend Cardinal, decided that the rubric of the new Breviary should be observed. July 13, 1675. These matters were necessary to be reported, so that the state of the question might be kept in view. Two Consultors were asked to write about this question and to express their opinions: but, since their writings seemed to be less satisfactory, a third Consultor was added, who would write about this matter, after all had been reviewed and considered: and this Consultor truly elaborated his opinion so that nothing would be lacking. His writings consist of 486 pages in folio. Therefore, since the Consultors were divided in their opinions, we will briefly present the main arguments taken from their writings, so that sufficient knowledge of the matter may be obtained. It must be noted, however, that the principal question concerns the Breviary reformed and augmented by Abbot Claude Vaussin, the General of the Order of Cîteaux, which, as is said, was not accepted by the Portuguese, nor by some Spaniards, nor by those Italians who received the monastic Breviary of Paul V. But, apart from these few, all the Cistercians of common observance in Gaul, Germany, Bohemia, Hungary, Poland, Switzerland, England, Ire-

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land, America, and in the greater part of Spain, accepted it, and from that time until the present, they have used this Breviary. The second question concerns the offices of certain saints, which, throughout the world, are either not observed or are not celebrated with the same prescribed rite in the Order of Cîteaux.

[*Latin ed. p. 476*]

476 OF THE ORDER OF CÍTEAUX. A concise discussion. ARGUMENTS PRESENTED AGAINST THE BREVIARY OF CLAUDIUS VAUSSIN. — The first two consultants, based on the series of Decrees previously explained, easily demonstrated the following: before Claudius Vâussin reformed the Cîteaux Breviary with his own authority, the Most Holy Pope Paul V had already approved a reformed monastic Breviary and had urged all Orders following the Rule of St. Benedict to conform to this Breviary. Such exhortations were subsequently transformed into a precept by the Decree of the Sacred Congregation of Rites on January 24, 1615, in which it was declared that all monks and nuns who followed the Rule of St. Benedict were obligated to use the aforementioned Benedictine Breviary, as ordered by the Most Holy [Pope]. This Decree was also mentioned in the Brief "Exponi Nobis" of Urban VIII, dated June 17, 1643. Subsequently, doubts arose among some Cîteaux monks of the Italian province, and after an examination, it was decreed in 1661 that Cîteaux monks were included in the Decree issued and approved by the Most Holy Pope Paul V, and therefore they were obligated to adopt the aforementioned Breviary within the year, otherwise they would not fulfill the precept of reciting the Divine Office. This Decree was confirmed on July 23 of the same year. The Cîteaux monks of France, as was fitting, declared themselves ready to adopt this Breviary, but at the same time, they requested a suspension of the Decree until the General Chapter; and although the Sacred Congregation of Rites, on July 3, 1662, granted this request if the Most Holy [Pope] deemed it advisable, Alexander VII refused. Therefore, the consultants concluded that the Cîteaux monks, who almost all had, until then, adhered to the Vaussinian Breviary, had not complied with these Decrees, although the consultants readily conceded that such Decrees had not been known in many monasteries and families of the Cîteaux Order. Regarding the Brief of Alexander VII, given on April 19, 1666, for the reform of the Cîteaux Order, in which § 17 reads: "This form [of the Divine Office and manner of chanting] must be observed most exactly, and the material must be taken from the usage of the Roman Church," etc., these words clearly contradicted all those who insisted on preserving the Vaussinian Breviary; the consultants observed that this pretended approval could not be reconciled.

[*Latin ed. p. 477*]

OF THE ORDER OF CÍTEAUX. 477, it is possible that, with the aforemen-

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tioned Decrees of the Holy Congregation of Rites, in which the authority of Alexander VII himself explicitly intervened, as demonstrated by the documents presented above. And if that Vaussinian Breviary had truly been confirmed, the monks of Cîteaux would have been obligated to conform to it for the province of Italy, and it would have been incorrect to say that they had opposed the Pontifical Constitution; these words "forma" signify nothing other than the form of the monastic rite, which form was also observed in the Breviary of Paul V; thus, it was forbidden by those words for the monks of Cîteaux to introduce the Roman rite for secular clergy; other words are taken from the usage of the Roman Church and are true in the Breviary of Paul V, from whose material it was derived from the Breviary of St. Pius V; conversely, the same words would not be well suited to the Vaussinian Breviary, in which many innovations would be found, as well as more excerpts from the old Cistercian rite and things foreign to the Roman rite; and similar things. But when these words "forma" are considered to refer to the monastic form prescribed by St. Benedict, which form the Benedictine Congregations have preserved, it is clearly understood how Alexander VII could have decreed: as has hitherto been customary; for these words, when referring to custom, could not signify the recent introduction of the Vaussinian Breviary; moreover, not all monasteries used that Breviary, and the Decrees of the Sacred Congregation of Rites had already rejected it. But with regard to the Brief of Clement X, dated January 26, 1669, in which the Pope approved the Decrees of the last general chapter of Cîteaux, among which Decrees it is read that it was established that no further changes should be made in the new Breviary, but that all members of the Order should adhere entirely to the existing one; the Consultor also noted that, in the same way, the words could not be understood to refer to the Vaussinian Breviary, but to that of Paul V, which could have been called new in comparison to the old monastic Breviary of Cîteaux; especially, because of the alleged Decrees of the S. C. R., of which there is no mention of derogation, nor in this later confirmatory Breviary; but it is the custom of the Roman Curia that, when dealing with dispositions that derogate from previous ones, mention should be made of those from which derogation is made.

[*Latin ed. p. 478*]

4-78 OF THE CISTERCIAN ORDER. Even more so, because subsequent decrees were present, which confirmed the former ones, and mandated that they be preserved in their full force. To these are easily added the observations of the Consultors, who wrote against the most widespread custom in that Order concerning the use of the Breviary of Yaussin.

THINGS OBSERVED REGARDING THE OTHER QUESTION. — Contrary to the custom prevalent in the Cistercian Order, which states that Cistercians do not add new offices, even if prescribed for the entire world,

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unless the General Chapter mandates that they be added, or the Holy See explicitly includes Cistercians in general decrees, the following, among others, were observed: Before the Council of Trent and the Constitution of St. Pius V, Ordinaries could add certain feasts and special offices to their liturgical calendar. The Cistercians reserved this faculty for the General Chapter, in order to maintain greater uniformity of ritual. For it is well known among them a certain important and ancient document, approved by the Holy See, which is called the "Charter of Charity"; in which the following were established: "And because all monks who come to us are received into our monastery, and we likewise receive ours into their monasteries, therefore it seems fitting to us, and we also desire, that they possess the manners, and the chants, and all the books, and the daily and nightly hours, and everything necessary for all the Masses, according to the standard of the manners and books of the new monastery (that is, Cîteaux), so that in our actions there may be no discord, but one charity, one rule, and we may live with similar customs."

However, with regard to the General Decrees of the Holy See prescribing divine offices and feasts, it was observed that the Cistercians almost entirely lacked the offices that had been prescribed almost two centuries ago; and while they claim ancient privileges, one of the Consultors endeavored to show that they lacked these same offices in ancient times. The main argument that he was able to present was a letter from Alexander IV, which is cited by Martene, *Thesaurus Anecdotorum*, vol. 1, p. 1063, in the year 1255, which we quote here in full:

"Alexander, Bishop, Servant of the Servants of God, to his beloved son, Abbot of Cîteaux, and to the General Chapter of the Cistercian Order, greetings and the Apostolic Benediction.

Although the Apostolic See, through just and meritorious judgment..."

[*Latin ed. p. 479*]

OF THE ORDER OF CÍTEAUX. 479 "Beatus Dominicus Confessor, founder of the Order of the Brothers Preachers, and Beatus Petrus Martyr of the same Order, having been inscribed in the catalogue of Saints, [the Holy See] commanded that their feasts be solemnly celebrated throughout [the Church]; yet you, taking advantage of the fact that this was not specifically commanded to you, do not celebrate the feasts of these Saints with due solemnity: therefore, we implore you, and urge you with all earnestness, through the Apostolic writings addressed to you, to attend to this matter, and to understand that those who venerate the Saints will undoubtedly attain great joys through their merits; and that, through the merits of these aforementioned Saints, the solemn celebration of their feasts be duly observed throughout your Order, as is known to be the established practice. Given at Anagni, on the Kalends of August, in the first year of Our Pontificate.

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Regarding more recent times, the Consultor cited the Decree of the Sacred Congregation in Fullen, dated July 2, 1639, which reads as follows in the Gardelliniana Collection: "The Procurator General of the Congregation of Fullen, of the Order of CÍteaux, requested a response: whether his Congregation, using the reformed Benedictine Breviary, is obligated to recite the offices of those Saints who were included in the Roman Calendar by the Apostolic See after the acceptance of the aforementioned reformed Benedictine Breviary? And the Sacred Congregation ordered that this matter be brought to the attention of His Eminence, who responded: 'It is to be observed.'" Furthermore, the Consultor inquired whether the Missal published in 1617, by order of Abbot General Nicholas Boucherat, contained all the obligatory feasts, and whether the Yaussinian Breviary, published in 1656, contained the same feasts, except for three. However, the Consultor then introduced a new point, stating that, due to numerous innovations made in the old Breviary and in the Cistercian liturgy, the Cistercians had, by right, decided that what pertained to them, according to the celebrated Constitution *Quod a Nobis* of Pope Pius V, issued on July 15, 1568, by which it was permitted that older Breviaries, for a period of two hundred years, might be retained. From this, the Consultor delayed the discussion, mentioning the numerous changes made by the General Chapters from the beginning of the seventeenth century, of which we shall speak later.

[*Latin ed. p. 480*]

480 OF THE ORDER OF CÍTEAUX. THE VOTE OF THE THIRD CONSULTOR IN FAVOR OF THE TWENTY CUSTOMS OF THE ORDER OF CÍTEAUX. The third Consultor omitted nothing in order that all and each of the things which were objected to by those who had opposed the Vaussinian Breviary and the liturgy of Cîteaux might be subjected to careful examination. And with regard to liturgical innovations, he observed that they had indeed been introduced in the Order of Cîteaux at the beginning of the seventeenth century, but that they were not of the magnitude that has been described; and, moreover, that these innovations were made with the best of intentions, and that they should not be confused with the liturgical innovations of the Gallican clergy, as will be evident from the following account. In France, the liturgical innovations which almost completely eliminated the Roman liturgy began towards the end of the same century; whereas, at the beginning of that century, the clergy of France had greatly preferred the Roman liturgy, as Melchior Du Lac recounts in his historical memoirs, entitled "La liturgie Romaine et les Liturgies Françaises," chapter II, page 226. The liturgical corrections of the Order of Cîteaux, on the other hand, began at the beginning of that century, and not in France, but in Italy. The first Cistercian Breviary, somewhat modified, was published in Venice in 1608, by the authority of Abbot Nicholas Boucherat, the General Abbot, and the Abbots of the

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Lombard Congregation; and it was intended for the Cistercians of Italy. Three years later, another Congregation of Italians, called the Fulliens, who had been reformed by St. Bernard, and who were entirely separated from the Cistercians, also began to reform the Breviary of the Order at a General Chapter held in Pinarolo in the year 1611. These reforms, though small and gradual, continued until the year 1651, when, by order of the Abbot of Cîteaux, the reform was made more complete and extensive; and since then, nothing further has been changed. In France, the first new Gallican Breviary was published in 1678 by the Archbishop of Vienne, De Villars, who was the first to raise the banner against the Roman liturgy, and who was followed by the Archbishop of Paris, Harlay. The reasons for these differences between the monks of Cîteaux and the Gallican clergy were entirely different; for the Gallicans sought to abolish the Roman liturgy, while the Cistercians sought to maintain it as much as possible within their own Order. This, indeed, is clear.

[*Latin ed. p. 481*]

OF THE ORDER OF CÍTEAUX. It appears more clearly, through a comparison of the ancient and more recent liturgical books of the Cistercians: and it suffices here to say something about this matter. In the Rule of St. Benedict, the custom of saying "Alleluia" continued until the beginning of the fourth week of Easter. The General Chapter in the year 1601 decreed that it should cease from the beginning of Septuagesima, according to the Roman rite. In the reforms made in the years 1608 and 1611, the office for the three days of the greater week was entirely taken from the Breviary of St. Pius V, including the rite. In the year 1618, at a General Chapter held at Cîteaux under the aforementioned General Abbot Boucherat, the following were established: "Our priests were ordered in the Chapter of the year 1618 to perform the divine service according to the Roman rite; and in the following time, 'our Missal and Breviary were adapted to the order and rubrics of Rome,' as it is written in the preface to the Cistercian rite. But such variations, although made with the aim of adopting the Roman liturgy, were difficult to reconcile, and therefore could not be entirely free from confusion in practice. Claudius Vaussin, appointed General Abbot in the year 1645, was the one who, in the General Chapter of the year 1651, seriously concerned himself with correcting the discrepancies, having before his eyes the liturgical books of St. Pius V and the Cistercian liturgical discipline. He obtained this, by entrusting the task to learned men, who, after five years of labor, published a Breviary, in the front of which these words are read: "It was the pious emulation of many that the prelates of the Cistercian Order, in the last general assemblies in the year of Our Lord 1651, were compelled to issue a decree, by which the Breviary, after examination and judgment by chosen men, should be restored in a more correct and suitable manner, having been corrupted in many places." This

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work, indeed, had been attempted by some before, but the more corrections were added, the more deformed it appeared. These men, indeed, being too attached to the old tradition, labored in vain to repair the wall, which was cracked in every place. Therefore, it seemed better to some to request the intervention of the Roman See, rather than to continue retaining something so altered in so many respects. But the constant usage of five centuries, the venerable tradition of the Saints, the considerable expense of the choral books, which were formerly written with great labor by industrious monks on parchment, but above all, the order of the divine service prescribed in the Rule of St. Benedict, volume IV, section XLV, 31.

[*Latin ed. p. 482*]

482 OF THE ORDER OF CÍTEAUX. "It is fitting that this be done, which no one professing to do so may omit. Therefore, it was decided that in the present edition, three things should be observed. First, that, preserving the rights of the monastic institute, it should conform to Rome. Hence, the correction of the Psalms, canticles, and readings, strictly according to the edition of Sixtus V, recognized by the Vulgate: the feasts of some Saints have been inserted in the Calendar; the nocturnal office readings are taken from Scripture (1); a new arrangement of collects, chapters, antiphons, and responsories, with the greater part in the Vespers, and the rest elsewhere; in the sacred three days, the office is entirely Roman, and many other changes, which will occur sporadically to the reader... But, although the use of ancient books is to be maintained, as ordered by the Superiors, since they have scarcely anything similar to the Roman series of the divine office, this has led to some being reluctant to use them; however, if ever new antiphons are considered (which many desire), they will be brought into line.

The Consultor, however, observed a more important question in his inquiry, namely, whether the Cistercians could, by their own authority, undertake the reform. He showed that they could regulate the monastic breviary according to the norm of the Roman breviary, but that they would then be obliged to submit it to the Apostolic See to obtain confirmation; which he demonstrates with erudition. Pope Pius V, when imposing the Breviary and Missal reformed by himself upon the entire Church, did indeed exempt those breviaries that had been in use for over two hundred years; but he left it to the discretion of those who were obliged to recite those breviaries, whether they should preserve them, or adopt the reformed Roman Breviary. With these things established spontaneously, it seemed opportune to find those who would take a middle course, that is, by retaining the ancient books, bringing them somewhat into the form of the pre-

(1) Here, the Consultor noted that in the old Cistercian Breviary, the readings from Holy Scripture were arranged almost without order. Sometimes, Holy Scripture was read not only in the first nocturne, but also in the

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second; sometimes, from the first nocturne, and after two or three readings from Holy Scripture, some passage from a Saintly Father would begin to be read in the third or fourth reading, and its recitation would continue in the other four readings of the second nocturne (the Cistercians recite twelve readings); sometimes, conversely, all readings from Holy Scripture were omitted, and instead, passages or treatises from a Saintly Father were recited.

[*Latin ed. p. 483*]

FROM THE ORDER OF CÍTEAUX. In the year 483, a decree was issued, always to remain in force, obliging all monasteries to submit to the Apostolic See for confirmation. As for France, there were several ecclesiastical provinces which decided to completely abandon their own liturgy, as was the case in the provincial synods of Bordeaux in 1583, Bourges in 1584, Acqui in 1585, Toulouse in 1590, and Narbonne in 1609. In contrast, the provinces of Lyons, Vienna, and Sens retained their ancient books without any alteration. In the provincial synods of Rouen, Tours, and Reims, it was decided to revise the liturgical books according to those of St. Pius V. Indeed, I can offer one or two examples: in the provincial synod of Rouen in 1581, the following was read: "We urge our province's bishops to carefully examine and scrutinize the prayer books, breviaries, missals, manuals for confessors, and other ecclesiastical books and ceremonies of their dioceses, so that they contain nothing contrary to Catholic doctrine, or to the true histories of the Saints... but that the revised books, as far as possible, should maintain the customary usage of the dioceses, in accordance with the constitutions of the aforementioned Pope Pius V concerning the Roman Breviary and the Missal, restored and published according to the decree of the Holy Council of Trent." Also, in Tours in 1583: "We warn... that the missals, breviaries, graduals, and other books necessary for divine worship (which almost all churches lack) should be accurately revised according to the norms prescribed by the Apostolic See and the aforementioned constitutions of St. Pius V." All of these can be seen in Labbé, volume 15. Furthermore, almost all religious orders which had used the ancient breviary for many centuries made changes to it. As an example, I can cite a letter from the Prior of the Carthusian Order in 1586, in which he wrote to all the priors of that order: "It is to be lamented that we, the most recent, after the first fathers, who were distinguished for doctrine and virtue, have dared to correct, remove, add to, and change something in the divine office. For after the decree of the Holy and General Council of Trent, the Most Blessed Pope Pius V ordered many things to be changed, both in the canonical office and in the office of the glorious Virgin Mary, the Mother of God. The Most Holy

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and blessed Gregory XIII also completely abolished the old calendar."

[*Latin ed. p. 484*]

484 OF THE ORDER OF CÍTEAUX. "And he will abolish it, and he will have prepared a new martyrology, much more extensive and copious..." But, following his example in this manner of correction and renewal, the Fathers of almost all the sacred Orders and of the most esteemed Religious Institutes. Their Missals and Breviaries, which had been corrupted by many superfluous additions and by Masses, offices, and accounts of the lives of saints that were apocryphal and less true, they restored to purity and to sincere religion... The examples of these men, we have not followed lightly or inconsiderately, but, according to the mandate given to us by the General Chapter, we have examined the ancient books of our Order pertaining to our province: and indeed, we would never have believed that they were so full of errors and falsehoods, unless we had examined the matter more closely ourselves... Therefore, according to the sacred canons, we have corrected them... And all of these things (as are all our works) have been done under the approval and scrutiny of the Most Holy Lord Pope Sixtus V.

It was, therefore, the common opinion at that time that liturgical books not included under the Pia Constitution could be amended, retaining what was essential. This was nothing other than following the example of St. Pius V, as Guyet teaches in *Heortologia, sive de festis propr.*, I, 3, chapter 1, question 7, which was cited by Benedict XIV in his work *De Canoniz. Sanctorum*, I, p. 2, chapter 13, note 5. However, it could be objected that the Holy See judged differently in our time; for on August 22, 1851, the Sacred Congregation wrote to the Bishop of Beauvais: "In relation to the condition of the church of Beauvais, which your Eminence transmitted to the Sacred Congregation of Extraordinary and Perpetual Penitentiaries, the following matters, which pertain to the Sacred Congregation, are appended, and concerning which, by order of His Holiness Pope Pius IX, these are submitted to your Eminence, as he made clear in an audience this day, signed by the Reverend Secretary." And first, regarding the facts alleged, which pertain to the Breviary and the Missal, although the Chapter and the clergy may be certain that they possessed and freely used these older and preceding Breviaries and Missals for two centuries before the publication of the Bull of St. Pius V, as is legitimately reserved in the same; nevertheless, it is certain that in subsequent times, changes and additions were made, so that at least in many respects they differ in the present time, even as regards the very original form, especially in the years 1741.

[*Latin ed. p. 485*]

OF THE ORDER OF CÍTEAUX. 485, and 1848 having elapsed, and therefore having ceased by law; and since the memory of them scarcely endures, it follows that, if they wish to maintain unity with the Church, they must

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adopt the Roman Missal and Breviary. Secondly, etc. - In Rome, on August 22, 1851. - A. LAMBRUSCHE, Cardinal, Prefect. J. G. Fatati, Secretary.

And in another letter sent to the Archbishop of Besançon on August 28, 1856, the following is read: "My Lords, My Lords, the Most Reverend Fathers." From all that has been presented to this Sacred Congregation by your Eminence with great erudition concerning the history and books of the ancient liturgy of Besançon, two things appear to have been thoroughly investigated. The first is that the Diocese of Besançon, at the time that St. Pius V. issued his Constitutions concerning the Roman Breviary and Missal, legitimately possessed and actually retained their own Breviary and Missal, having used them for many centuries, according to the exception provided in those same Constitutions. The second is that the prelates of Besançon, after the time of St. Pius V., over the course of many years, introduced additions, deletions, and variations into the books of their church, so that, it must be admitted, the Missal and Breviary with which that church now uses are very different from the original Breviary and Missal that were retained under St. Pius V.

Since these facts are established, it is easily understood what follows in law, if we recall that rule which Pope Gregory XVI. declared in his Brief to the Archbishop of Rheims, dated August 6, 1842, writing that St. Pius V. intended to exempt only those from the obligation of the Roman Breviary and Missal who had, for at least two hundred years, used a Breviary and Missal different from those; that is to say, that they should not, indeed, change again and again at their own discretion the books of this kind, but that, if they wished, they could retain those with which they were using. From this rule, it follows that the Church of Besançon, after having introduced many variations into its liturgical books at its own discretion, has lost all the privilege that it had obtained through the Constitutions of St. Pius V. Therefore, after examining the law, it is now clear to your Eminence that the Diocese of Besançon cannot return to its old liturgical books, which it abandoned. But, since, etc. - C. Episc. Albanen. Cardinal PATRIZI, S. R. C., Prefect. H. Capalti, S. R. C., Secretary. - In Rome, on August 28, 1856.

[*Latin ed. p. 486*]

486 OF THE ORDER OF CÍTEAUX. The Consultor observed that these and similar matters could not be opposed in the present context. For he recalled that it was known when these liturgical innovations were begun in Gallus, and with what intention; as we mentioned above: that unlike the innovations of which we are speaking, which were begun at an opportune time, namely after the decrees of the Council of Trent, and with the intention of preserving, as far as possible, the proper liturgy which venerable antiquity had instilled, and at the same time making improvements that the excellent Roman prescriptions seemed to require of the entire liturgy. This, indeed, cannot be considered to have been prohibited; since the Holy

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Father did not understand that the ancient books should be preserved in every detail from the universal law, but only that the venerable antiquity should be preserved. This, in particular, the Consultor demonstrated, and it has been widely confirmed by the Apostolic confirmation of these liturgical books, which, although necessary, came about as a result of a well-received and properly conducted undertaking. Hence, the Gallic provincial councils which instituted these improvements deserved to receive approval, as can be seen in Labbé, vol. 15, pages 876, 915, 1000, and 1062-63. Furthermore, the Prior General of the Carthusian Order, of whom I spoke above, obtained from Sixtus V. a brief dated March 17, 1587, with these words: "We have been informed by you and the General Chapter that the Breviary of this Carthusian Order, which you have recently amended, has been examined by our devoted sons, Anthony, titular of St. John and St. Paul, Carafa, titular of St. Mary in via, Monreale, of the Sacred Roman Edict, and other learned and expert men, whom we esteem, who have diligently and carefully reviewed all parts of the entire divine office of the canonical hours. After having carefully considered all and each of these parts, they finally reported to us that nothing in it is found to be contrary to the institutions of the same Holy Roman Catholic Church, the decrees of the ecumenical Council of Trent, and the sacred canons. Therefore, We hereby approve, confirm, strengthen, ratify, and declare valid that which has been so corrected and revised, with Our Apostolic authority..." And the Order itself, which follows the rule of St. Benedict, reformed its liturgical books several times shortly after the decrees of the Council of Trent.

[*Latin ed. p. 487*]

The Consultor demonstrated with numerous arguments that the Order of Cîteaux had also been approved by the Holy See. Already in the year 1584, the Chapter of Monte Cassino reformed the *Breviarium*, which was published in 1585, bearing these words on its front: "The Monastic Breviary according to the rite of the Monks of the Order of Saint Benedict," the Congregation of Monte Cassino, reformed by decree of the General Chapter of 1584, and confirmed by His Holiness, Pope Gregory XIII, in Venice, at the presses, in the year 1585, "with the license and privilege of the same Supreme Pontiff." Another reformation is found in the Decree of the Sacred Congregation of Rites of February 21, 1604, which reads as follows: "The Monks of Saint Benedict of the Province of Portugal presented a reformed Breviary for use according to the Roman Breviary, seeking its approval. The Sacred Congregation of Rites, having heard the report of the Most Reverend and Illustrious Cardinal Baronius, to whom this matter had been entrusted, approved the aforementioned reformed Breviary for use according to the Roman Breviary, except for those things which the monks are bound to observe in the recitation of the Breviary according to the prescription of the Rule of Saint Benedict. And so that the reformed

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Breviary of the same Order of Saint Benedict may be freely and lawfully recited in the Kingdom of Portugal by the monks of the same reformed Congregation of Saint Benedict, permission was granted." And in the same year, the Sacred Congregation decided that the same reformed Breviary "should be recited both by the monks and by the nuns of the same rule and reformed Congregation of Saint Benedict in the Kingdom of Portugal, even if the nuns are subject to the local Ordinary." A third reformation was approved on December 6, 1608, by this Decree: "Approval of the Benedictine Breviary. This Benedictine Breviary, restored according to the Roman model, and proposed in the Sacred Congregation of Rites by the Abbot of Saint Gall of the Order of Saint Benedict, and by other Abbots of the same Order in Switzerland and Sweden, having been diligently examined at the mandate of His Holiness the Pope and of the same Sacred Congregation, was recognized and signed by the Most Reverend and Illustrious Cardinal Bellarmine, and the same Sacred Congregation approved it, and granted permission to the aforementioned Abbot of Saint Gall and to the other Abbots of the Order of Saint Benedict, and to their monks, in Switzerland and Sweden, to freely and lawfully use it..." Finally, a fourth and last reformation was undertaken by all the General Procurators of the various Congregations of the Order of Saint Benedict.

[*Latin ed. p. 488*]

488 OF THE ORDER OF CÍTEAUX. Concerning those things which were approved by Paul V, as stated above in the Brief issued on October 1, 1612. Therefore, after the Piarist Constitutions, the Consultor concluded that the Cistercians could not be blamed for the reform of the Breviary, which was made with the Roman Breviary of St. Pius V before their eyes; but that they were worthy of blame for having put it into use before obtaining the approval of the Apostolic See; however, the Consultor excused this fault, which they certainly did not suffer without consequence, for various reasons. After these things, the Consultor proceeded to examine the question of whether, up to this point, almost all of the Cistercians had used the Vaussin Breviary. The Consultor considered it worthwhile to recount the history of the reform of the Cistercian Order, which took place in the 17th century, since this reform is also relevant to the present question. This history, as recounted by him, is reduced to the following main points. The Cistercian Order had somewhat declined from its original splendor in the 13th century, and this decline became very great at the beginning of the 15th century. Therefore, there were not lacking monks who desired the reform of the Order. The Holy See readily supported these desires, which were in accordance with its own purpose. Hence, gradually, various reformed congregations were established in different parts of Europe. However, two of these, above all others, deserve to be mentioned: the first is the observance of the regular canons of Spain, also known as the Castilian

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observance, whose author was Martin de Vargas in the year 1425; and the second is that of the Fullians, which arose in Gallus around the year 1577, through the work of John de la Barriere. The first reform did not extend very far; the second, however, proved to be much more extensive, so that it not only spread throughout Gallia, but also descended into Italiam, and, after being removed from the jurisdiction of the Abbot of Cîteaux, it was placed directly under the Apostolic See by Clement VIII, from the year 1592. Indeed, this same Order of the Fullians was divided by Urban VIII in the year 1630 into various congregations, independent of each other, the first of which is known as the Congregation of the Blessed Virgin Mary of the Fullians in Gallia; the second is called the Reformers of St. Bernard in Italiam.

[*Latin ed. p. 489*]

OF THE ORDER OF CÍTEAUX. 489 Nevertheless, the greater part of the Cistercian Order at the beginning of the 17th century was in need of a salutary reformation; indeed, it seemed that even the reformed congregations were losing their original fervor. At that time, the Abbot of Clairvaux, Dionysius Largentier, conceived of a broad and complete reformation that would lead his monks back to the original way of life. He first introduced it into his own monastery. Since his monastery was one of the four principal monasteries of the Cistercian Order, from which many other monasteries derived their origin, this reformation soon spread to eight other affiliated monasteries. The Abbot who then presided over Cîteaux, named Boucherat, accepted this reformation until the General Chapter; but at that time, the Chapter, held in the years 1618 and 1623, which was composed of Abbots of the common observance, did not seem inclined to promote the reformation; indeed, they strove to suppress it. Hence arose a certain contention of spirits, and those who were called reformers gained the victory. At the intervention of a petition from Lewis XIII, King of France, Pope Gregory XV and his successor, Urban VIII, appointed Cardinal de la Rochefoucauld as Apostolic Commissary for the reformation of the Cistercians in France; who, for the sake of his commission, on July 27, 1634, enacted certain measures that urged the reformation most fully, and perhaps even more than was necessary; concerning which, one may consult Gaillardin in his recent work, *Les Trappistes ou l'Ordre de Citeux au XIX. siècle*, Paris, volume 1, chapter B, page 55. The Cistercians of the common observance, in order to reject this reformation, turned their prayers to Cardinal de Richelieu, the Prime Minister of Lewis XIII, and implored him to undertake their reformation, declaring that they preferred: "to be scourged by his Eminence, rather than to be caressed by Cardinal de la Rochefoucauld"; and they elected the same Cardinal as Abbot of Cîteaux, or General of the entire Order. But, as the esteemed historian Gaillardin relates, *loc. cit.*, page 57, this same Cardinal, while presiding over the Order, followed very

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closely what the Apostolic Commissary had ordered. However, upon the death of Cardinal de Richelieu, the Cistercians...

[*Latin ed. p. 490*]

490 OF THE ORDER OF CÎTEAUX. After many and serious vicissitudes, they were able to elect Claudius Vaussin as General Abbot, and the reformed Cistercians elected John Iovaudo as General Abbot. Although these protested against the election of the latter, nevertheless Innocent X confirmed the election of Claudius Vaussin. This man, a Doctor of the theological faculty of Paris, the first counselor born in the Parliament of Burgundy, had been a monk in the monastery of Clairvaux under the aforementioned Abbot Dionysius Largentier, the first reformer. And having observed by experience that few were true heroes of Christian virtues in the present condition of life, he understood that the reformation of the Cistercian Order was indeed necessary, but that it should be tempered so that it might be easily accepted and adapted by all. And above all, he sought to recover certain important rights, which he obtained from Innocent X by a Brief dated January 1, 1649, and again on June 16, 1653. Serious disputes arose, or were prosecuted, between the Cistercians of strict observance and those of common observance in France, especially concerning the eating of meat, so that Alexander VII imposed an end to the controversy on November 10, 1657, by a Brief entitled *In supremi*. For, having recalled the actions of Sixtus V and Alexander...

(1) Here it will not be inappropriate to note the following, although it is somewhat extraneous to the present subject. The title of Doctor, which the Fathers of Trent held in high esteem, so that the degree of Doctor in ecclesiastical sciences conferred certain extraordinary ecclesiastical rights, as we have seen specifically in the case mentioned on page 445, concerning the election of Vicars Capitular, has gradually, especially in our time, lost its force. And while formerly this title had great real significance, today it is held in almost no esteem, and the degree of Doctor can be easily obtained by all who wish. This fact can have two principal meanings: either the study of the sciences has progressed so much that individuals, through talent and labor, can attain the degree of Doctor in this present age, whereas formerly they would have been urged on by the Council of Trent; or, conversely, the study of the sciences has been so depressed and neglected that it is easy for all who wish to give evidence in those same sciences, by which they might deserve the title of Doctor. Since the second of these meanings is true in at least some places, it follows that those legal rules which were established at the time of the Council of Trent concerning Doctors cannot properly be applied. This, it seems to me, is the reason why the Holy Congregation of the Council, in the application of the Tridentine Decree concerning the election of a Vicar Capitular, while firmly adhering to that provision in older resolutions, has seen that, over time, some of that firmness in preferring

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the quality of a Doctor in a Vicar Capitular has diminished.

[*Latin ed. p. 491*]

OF THE ORDER OF CÍTEAUX. 491, Decree VI. Having declared that abstinence from meat was not among the essential elements of the Rule, and having been disturbed by importunate complaints regarding this matter, which caused disturbances of conscience, and consequently, dissensions, contentions, and lawsuits, resulting in great detriment to religion, he declared: It is permissible, and has been permissible, for monks of the Order of CÍTEAUX to make use of the aforementioned dispensation regarding the eating of meat, through the General Chapter of this Order, with the authority of the Holy See, and confirmed by long-standing custom. Moreover, on March 8, 1660, the same Pontiff, through letters in the form of a Brief, referring to this matter, stated: "Certain religious of the same Order (of CÍTEAUX) in France, called those of stricter observance, under the pretext of introducing abstinence from meat into monasteries, the use of which on certain days had been granted by the Apostolic See, are entering into certain contracts, transactions, and agreements with ancient religious of this Order, by which they promise and distribute certain pensions in money and goods, and release them from the greater and principal obligations of the choir and other observances to which they are bound by their profession, thereby exposing them to a clear danger of relaxation and ruin, provided that they cede to them, solely and exclusively, the administration and governance of the monasteries, both in spiritual and temporal matters, and the free election of officials and superiors, both in active and passive votes: he declared: The contracts, transactions, and agreements, of which we have spoken above, have been and are illicit, and therefore are null and void." Indeed, and furthermore, on July 2, 1661, the same Pontiff, having learned that certain monks of stricter observance were using certain opinions of the deceased Cardinal de la Rochefoucauld, who had not always acted in accordance with the mandates of the Apostolic See, and were claiming that those who did not abstain from meat were deprived of the active and passive vote, he strictly forbade them from disturbing the monks of common observance from the freedom of the active and passive vote in the elections of the Abbot General of CÍTEAUX and others. In these disturbances and dissensions, when Abbot Vaussin realized that he could not undertake the reform of the Order without the help of the Holy See, he petitioned and obtained from Alexander VII. that reform; therefore, the same Pontiff—

[*Latin ed. p. 492*]

492 OF THE ORDER OF CÍTEAUX. Having perceived a cause for concern, I appointed a special Congregation in Rome, and it was desired that the articles for reform be presented by the same Abbot Vaussin before that

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Congregation, as is evident from the following Apostolic Letters, dated January 16, 1662, of this tenor: "Now, since the beloved son Claudius Vaussin, Abbot of Cîteaux and of the entire Order of Cîteaux aforesaid, has humbly approached us, seeking the canonical promotion of the Order through a reform spread throughout various parts of the world, preserving the unity and complete subordination of the same Order; We, praising the zeal, diligence, and labor of the same Abbot General greatly in the Lord, and wishing to favor him with special grace... inclined by the humble supplications made in his name concerning this matter, and having seen and examined the writings sent to us from time to time by a particular Congregation appointed by Us to examine, inform, and report on the cause of this reform in its present state and terms... we summon it anew, by the authority of the Holy See, before Us, through the tenor of the present document." Furthermore, We command the aforementioned Abbot General, Claudius, to summon or urge suitable members of his Order, both from France and elsewhere, to present to the aforementioned particular Congregation, within three months, the articles concerning the reform that We are instituting." When such Apostolic Letters were issued, the Holy Congregation of Rites had already promulgated the Decrees that We mentioned above, and a Consultor of those Decrees inquired and reported on the great disagreements that were then raging between the Cistercians who had already been reformed in Italy, and those of the common observance in France. Indeed, the former did not easily adapt to the Vaussin Breviary, as others, conversely, did not adapt to the Breviary that they themselves had already reformed; therefore, the Holy Congregation of Rites, after first examining the Vaussin Breviary, came to the opinion, in order to avert these disagreements, that the Breviary of Paul V. should be adopted by all, even more so because it had already, in a certain way, found a path through the Decree of January 24, 1615. For, as can be seen from that Decree, the Holy Congregation inquired whether those who had previously used the Roman Breviary or another could use the Breviary reformed under Paul V, and it responded: that they could and should.

[*Latin ed. p. 493*]

OF THE ORDER OF CÍTEAUX. 493 Nevertheless, since the monastic Breviary of Saint Benedict, according to the edition of Paul V, remained suspended among the Cistercians, while, on the contrary, the Decrees of the Holy Roman See prescribed its use under pain of non-fulfillment of the precept, it remained to be explained how this could have happened. On the one hand, it would have been absurd to think that so many thousands of Cistercian monks had disregarded these Decrees; on the other hand, the Cistercian prelates, having requested a suspension until the General Chapter, had been refused by the Most Holy Father. The Consultor, considering the documents in which Abbot Vaussin was mentioned, and in how high

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esteem he was held by the Most Holy Fathers, as is sufficiently evident from the recently published Apostolic Letters, stated that the authority to make such a decision must have been granted by Clement VII, since the matter of a complete reform of the Order was already being considered, in which liturgical questions would also have to be addressed. With these observations, the Consultor continued the narration of the history as follows: Although Abbot Vaussin was already in Rome for this important matter, two Abbots who professed strict observance in France also arrived, one Abbot de Val-Richer, the other Abbot de Ranée, a celebrated Trappist reformer; all of them presented their articles of reform. But after examination and discussion, the articles of reform proposed by Vaussin deserved approval; therefore, Apostolic Letters were issued, beginning on the 19th of April, 1666; and among other things, the Supreme Pontiff stated: "We entrusted these articles, presented on both sides to the Congregation of certain Venerable Brothers, Our Cardinals, and of the esteemed sons of the Roman Curia, to be diligently and carefully examined and explained by Us, and the restriction and reduction to the heads of the Rule of Saint Benedict, of those articles which are suitable for the general reform of the Cistercian Order, is as follows: 'Concerning chapter 11 of the Rule: what the Abbot should be like. 2. According to the Holy Council of Trent, etc. Concerning chapter 3, regarding those brothers to be consulted. 9. General Chapters every three years, etc.'"

[*Latin ed. p. 494*]

494 OF THE ORDER OF CÍTEAUX. "Concerning chapter V, on silence. " 16. The commendable practice of maintaining silence, etc. " Concerning chapter VIII, up to XX, inclusive, on the form of the divine office and the manner of chanting. " 17. This form must be observed most exactly, and the material taken from the usage of the Roman Church, for the glory of God and the edification of the neighbor, as has hitherto been customary in the Cîteaux Church, to which all other churches of this Order are bound, as if to a mother, according to the definitions and precepts of the Charter of Charity of Eugene III and Pius V. In order that this uniformity may be maintained in the performance of the divine office, all monasteries of the Order shall use the same rites, chants, and books for the daily and nightly hours and Masses, according to the aforementioned form of the Cîteaux monastery. " 18. During the canonical hours, the Office of the B. Virgin and the Office for the Dead, all, individually, shall be present in the choir, wearing their habits, and shall perform the canonical hours with Gregorian chant, according to the rule. " Finally, the same Pontiff concluded these celebrated letters with these words: "Now, when in the Congregation of Cardinals... the articles of the proposed reform had been diligently discussed, examined, and, where necessary, amended and adapted: We, being fully informed and instructed in all matters, etc... Therefore, by our own

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authority and with certain knowledge... by the tenor of the present document, we approve and confirm the aforementioned articles of reform in all respects and throughout... and we command and order that in the entire Cistercian Order, both in the kingdom of France and in other kingdoms and provinces, all religious, both of the common and stricter observances, shall observe and adhere to them firmly and inviolably, under the penalties contained in the rule." With these additions, the Consultor then noted that the article on the form and the other article on the canonical hours were a certain reproduction of a celebrated and fundamental document of the Order, called the Charter of Charity, of which we spoke above, which consists of the principles we have set forth: this document had been approved by Callixtus II in the Constitution *Ad hoc diei*, on December 23, 1119, and again by Eugene III; who had been a Cistercian monk, in the Constitution *Sacrosancta*, on August 1, 1152, in which, among other things, it is read: "And in all the monasteries of your Order, as in the church of Cîteaux, the rule of Saint Benedict shall be observed perpetually..."

[*Latin ed. p. 495*]

OF THE ORDER OF CÍTEAUX. "We command that you maintain in all the churches of your Order the same observances, the same chants, and the same books which pertain to the ecclesiastical office." This was finally confirmed by Saint Pius V in the Constitution *Ex innumeris*, on March 8, 1570. Therefore, the Consultor continued, if in two of the aforementioned articles, the observance of the liturgy is discussed, and if it is according to the rule of Saint Benedict, and indeed as has hitherto been customary in the Cîteaux church; if uniformity of liturgical books is prescribed according to the form of the Cîteaux monastery; if the canonical hours and the office of the Blessed Virgin Mary are discussed, if the statutes from the Charter of Charity are to be observed, in which the liturgical books should be according to the form of the Cîteaux monastery: if, conversely, this Form and the reformed canonical hours were presented to the Holy Congregation by Yaussin, and their use had already been prescribed in all the monasteries dependent on him; if, finally, all the Cistertians, both reformed and unreformed, with the exception of a very few monasteries, observe that Vaussinian Breviary, then it is clear that the old Cîteaux liturgical books had indeed been corrected and reformed by Yaussin. Alexander VII, according to what we have stated above, ordered that a general Chapter be convened next May, 1667, for the solemn promulgation of the aforementioned Constitution *In suprema*, and in which (the Pope said) diligent consideration should be given to the reformation of the Order and the observance of the rule, and to the more thorough implementation and practical application of the aforementioned articles of reformation. Therefore, a flourishing Chapter was convened, which, kneeling, accepted the Apostolic disposition, and applied itself to the individual articles; and with

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regard to the Breviary, it established the following: "In order to maintain this bond of uniformity in the performance of the divine office in all the monasteries of the Order, the general Chapter decreed and decided that, from now on, no changes whatsoever should be made in the new Breviary, but that full adherence should be given to its very structure by all members of the Order." These statutes, having been specifically approved and confirmed by Clement X, after a new examination by the same Congregation, which had elaborated the articles of reformation, were given the Apostolic Letters to the Church, on January 26, 1669, in which, with the articles of the general Chapter inserted, the Pope decreed: "We confirm and approve these."

[*Latin ed. p. 496*]

496 OF THE CISTERCIAN ORDER. We add strength to the inviolable firmness of the Apostolic constitution, and we supply all and every defects of law and fact, should any have intervened in any way above. Furthermore, it became manifest to the Consultant that this did not concern the monastic Breviary of Saint Benedict, reformed by Paul V, but rather a new Vaussinian Breviary; and moreover, it is evident from the fact that the aforementioned article had been drawn up by the General Chapter of the Cistercians, presided over by Abbot Vaussin, who were already using the same reformed Breviary; and from the fact that in that article it was stipulated that no further changes were to be made in the new Breviary, which signified that changes had already been made to it; changes which the Cistercians had never made to the Breviary of Paul V. Then, the Consultant proceeded to refute the objections, the most important of which were those drawn from certain subsequent Decrees of the Holy Roman See, one or another of which might seem to be opposed. But he easily refuted these objections, considering especially the monasteries to which they referred, which were no longer dependent on a Cistercian Abbot and were already using the Breviary of Paul V. After this, he proceeded to establish a comparison between the old Cistercian Breviary and the new Breviary reformed by Vaussin; and, examining each point in detail, he showed that the Vaussinian Breviary was more Benedictine than that promulgated under Paul V, and therefore purged, so that it might more closely resemble the Roman Breviary, as also the Cistercian Missal showed. Finally, the Consultant addressed another difficulty, which arose from the fact that many offices which were prescribed for the entire Church were lacking in the aforementioned Breviary, and that more feasts were celebrated with a rite inferior to that which the entire Church observes by prescription. He easily refuted this difficulty, considering the most ancient custom of the Cistercians, according to which they insert in the Breviary only those offices which the General Chapter, or the Holy See, for a special reason, commands to be celebrated in their Decrees. He said that this custom had

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been reasonable and legitimately prescribed, and he showed the legitimate characteristics of this custom from the well-known fact that several other Orders...

[*Latin ed. p. 497*]

OF THE ORDER OF CÎTEAUX. Four hundred and ninety-seven rites are observed, differing from those of Rome, and they enjoy the same customary law; these customs are clearly known, and the Holy See has never disapproved of them, but rather has often, either directly or indirectly, approved of them, so that those who follow a different rite from Rome and enjoy the same customary law may, whenever they wish, adopt some universal decree, expressly taking care to do so, as a recent example shows in the Apostolic Letters of September 25, 1835, concerning the Office of the Immaculate Conception of the Blessed Virgin Mary. With these and other matters extensively discussed, the doubts are to be resolved. I. "Whether, among the monks of the Order of Cîteaux, the use of the Breviary and the Missal proper to that Order, which were reformed by Claudius Yaussin, the General Abbot, around the middle of the 17th century, is lawful, as is a stricter observance." II. "And, assuming that the answer is affirmative: what is to be determined regarding those more recent feasts or offices of the Universal Church, which are either entirely lacking or are noted with a lower rite in the aforementioned books?"

RESOLUTION. The Holy Congregation of Sacred Rites, in the meetings held on December 5, 1868, with the Most Reverend Cardinal Gapalti present, after discussing the matter, decided to respond as follows: To I: Affirmative. To II: Deferred, and the calendar is to be examined by the Most Reverend Cardinal, together with the Promoter of the Faith and another of the Consultors, for presentation to the Holy Congregation.

FROM WHICH WE GATHER: In the most providentially accomplished reformation of the Roman Breviary by Saint Pius V, and universally prescribed, although exceptions were made for those who used their own Breviary and rite, yet, following the example of the Holy Pontiff, most have purged their own Breviary, at least in part, according to the Roman model (1). (1) The customs in the Church regarding the universally observed liturgical monuments testify to this. But neither in the assemblies of the faithful was the reading of the books of the Old and New Testaments, nor the chanting and reading of the Sacred Psalms, nor the Epistles and Homilies of the Saints, prescribed with a specific reason or form. As for the Church of Rome, the most ancient document, as it seems, is from the very beginnings of the Church, as seen in the Acts.

[*Latin ed. p. 498*]

498 OF THE CISTERCIAN ORDER. Such particular reforms were not only not prohibited, but, with the revision and confirmation of the Holy

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See, were deemed worthy of praise.

III. These reforms cannot be confused with later reforms made at will, which, without the intervention of the Holy See, altered the older Breviaries to such an extent that they neither respected the venerable antiquity for which they had been permitted, nor did they conform to the Roman universal liturgy. A clear description is found in a passage that is included among the fragments of letters of St. Leo the Great, although learned men do not attribute them to this Pope. This document is found in the Palatine Codex, as the editors of Turin report in the Appendix to the Bullarium Romanum, volume I, page 497, and reads as follows, up to the words "tractatus vero": "All the divine Scriptures of the holy Canon are read from the beginning of the year to the end in the church of St. Peter in this order. During the true time, that is, for forty days before the beginning of Lent, up to the eighth day before Easter, the book of the prophet Isaiah is read, from where it speaks of the Passion of Christ, and the lamentations of Jeremiah. During the days of Easter, the epistles of the Apostles and the Apocalypse are read, up to Pentecost. In the summer, the books of Kings and Chronicles are read, up to the middle of autumn, that is, fifteen days before November: then the book of Solomon, and the books of Women and Maccabees, and the book of Tobias, up to the first of December. Before the Nativity of our Lord Jesus Christ, the books of Isaiah, Jeremiah, and Daniel are read, up to the Epiphany. Afterwards, the book of Ezekiel and the minor prophets, and the book of Job, are read up to the Ides of February. The Psalms are read at all times. The Gospel and the Epistle are read likewise. The treatises of St. Jerome, St. Ambrose, and the other Saints, are read according to the order prescribed."

More codices, as the same editors note, contain: "The treatises of St. Jerome, St. Ambrose (the manuscripts of Herovall add St. Augustine), and the others of the Saints, as well as the expositions of the Old and New Testaments, which have been made by the most eminent doctors among the orthodox Fathers, are read in the church according to the order prescribed."

In regard to the substance, we have inherited the form of the divine office primarily from the monks. But even among the monks, the form was not invariable; and, having said enough about other matters, it is sufficient to note what is found among the prescriptions of St. Benedict regarding the chanting of the Psalms, chapter 18: "We especially urge this, that if anyone finds this distribution of the Psalms displeasing, he should arrange them in a way that seems better to him, always taking care that the entire Psalter, consisting of one hundred and fifty Psalms, is chanted each week."

Therefore, it is not surprising that, as the method of chanting the praises of God according to the form and method of the monks grew stronger in the Church, more documents and stories, some fabricated or corrupted, or

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apocryphal, were found in such ecclesiastical books for various churches, which were different and gradually increased or decreased or changed, just as hymns and prayers are found composed in such a way as to reflect the character of the times, of the monks, and of others who composed and inserted them. Thus, it is clear how provident was the reform of the Roman Breviary, and at the same time the universal prescription, by which all Latin churches were to adopt it without variation.

[*Latin ed. p. 499*]

OF THE ORDER OF CÍTEAUX. 499 IV. Just as the first reforms were to be commended, so the second were to be condemned; and therefore, if the ancient form which the Breviaries, with the exception of certain ones, were intended to preserve were to be lost, they could no longer be considered to be within the scope of the privilege. V. Indeed, such reforms, once enacted and put into effect, render the reformers and the churches subject to them so liable to censure, that, unless some particular circumstance intervenes, they also lose the right to return to the ancient liturgy which they have abandoned. VI. It is known that the Benedictine Order reformed its ancient Breviary, and that Paul V commended it to the entire Order, and that the CÍteaux Order could also have availed itself of this encouragement. VII. Indeed, after doubts and discrepancies arose, that encouragement finally passed into a true and weighty precept. VIII. Meanwhile, the universal reform of the CÍteaux Order having been proposed, the aforementioned monastic Breviary of the Benedictines remained suspended, and remained with the CÍteaux. X. The decrees and sanctions of Alexander VII concerning the reform of the CÍteaux Order also confirmed the liturgical form which they had followed from ancient times, but with a certain degree of flexibility, allowing them to regulate the same liturgical books according to the Roman liturgical norms (1). X. This regulation was accepted by the General Chapter of the CÍteaux, which already existed in the Vaussin Breviary, and this acceptance of the Breviary was confirmed by Clement IX in a specific form. XI. Therefore, all doubts that have arisen in the present age concerning this matter originate from a lack of historical knowledge, as well as from a misunderstanding of the Decrees of the Holy Roman Church. XII. Finally, one gathers that such questions, in the presence of a long-standing, extensive, and uniform custom, appear rash. (1) In the Apostolic Decrees of Alexander VII, there is a faculty granted to regulate it with regard to art. 47, under the words "forma ista, etc.," neither the matter which is prescribed to be taken from the Breviary of Paul V, nor the matter from the Vaussin Breviary, as it seems to have been understood in the Roman Church; later, it was made clear through the explicit prescription of the observance of the liturgical form of the CÍteaux Order, and the acceptance of the Vaussin

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Breviary.

[*Latin ed. p. 500*]

500 OF THE ORDER OF PREACHERS. On March 5, 1868, the Master General of the Order of Preachers presented the following to the Most Holy Pope Pius IX. "Having been decided upon several times by the Sacred Congregation of Rites, notably in Naples on December 15, 1691 (n. 3259) and in Tuy on May 23, 1846 (n. 5050), regular priests who are called to celebrate Mass outside of their own convent, either for the people of a particular parish on holy days of precept, or to fulfill the obligations of a certain church, may perform the sacred rites according to the form and rite of the church in which they celebrate, leaving aside their own calendar. These decisions are entirely in accordance with the recent response of the same Sacred Congregation to the moderator of the calendar for the Occitan province of the Order of Preachers in Gallia, dated April 13, 1867.

Nevertheless, it frequently happens that members of our Order, who, due to the particular constitution of the Order, are called to exercise the sacred ministry in various regions, sometimes remain for a longer period outside the convent (e.g., for the purpose of a Lenten preaching mission), and are, once or twice, prevented from offering the divine mysteries, because they are unable to do so either according to the calendar of the Order, when, for example, the Office of a certain Blessed is observed, whose cult is approved only for our churches, in Tuy on September 7, 1816 (n. 4526 ad 17), nor according to the calendar of the place in which they are located, when it is also marked therein that the Office has been specially granted only to the priests of that place, as decreed in Vertet on September 27, 1659 (n. 2002 ad 6), and in Vertet on June 11, 1701 (n. 3588 ad 3), and the Mass is not to be celebrated for some necessity of the place.

Therefore, the aforementioned speaker, desiring above all that all religious under his care perfectly observe the rubrics and various decrees of the S. R. C., but at the same time, that priests are not, on repeated occasions, prevented from offering the sacrifice of the altar, humbly and with great reverence, requested the same Most Holy Pope that, whenever members of this Order are, for any just reason,

[*Latin ed. p. 501*]

OF THE ORDER OF PREACHERS. 501. Those of the Order who, whether on a journey, engaged in preaching, or in some other ministry, reside outside the convent, are not permitted to celebrate the Sacrifice of the Mass according to the calendar of the Order, for the reasons mentioned above, or for similar reasons; however, they may enjoy the faculty of conforming to the calendar of the place where they are, observing whatever feast occurs there, and, to the priests of that church who are dedicated to its service, it is permitted to recite the proper Masses; precisely in this

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manner, all priests, both secular and regular, who come to churches of the Order of Preachers, may, by virtue of the concession issued by the Holy Roman Church on February 28, 1856, conform to the calendar of that Order, even reciting Masses dedicated to the Blesseds or other Masses particularly permitted. Furthermore, having heard the opinion of another from the Masters of the Sacred Ceremonies (1), the Holy See, with paternal benevolence, has graciously approved of everything according to the petitions. "Notwithstanding any contrary provisions." On March 5, 1868. The Most Reverend Cardinals of Porto and Santa Rufina, PATRIZI, Prefect. D. Bartolini, Secretary. (1) The Master of Ceremonies considered that, by grace, it could be permitted to the Brothers of the Order of Preachers to conform to the calendar in which they happen to celebrate, in exactly the same manner as the indulgence was granted to secular priests celebrating in churches of the Order of Preachers on February 28, 1856, to conform to the calendar of the Order, even on the feasts of the Blesseds. However, he noted that the Decrees of the Sacred Congregation concerning Masses for the Blesseds, and especially that of June 7, 1816, do not exclude other permissions, so that a regular priest celebrating in a foreign church for a legitimate reason may conform to that church, indeed, he may confirm this, prescribing explicitly that, omitting the Office for the Blessed, the Mass assigned in the calendar of the church where the celebration is to take place should be said. Regarding the other Decree, which establishes that an external priest should rather abstain from celebrating Mass than recite the Mass for the Blessed, it cannot be applied in the present case, since it concerns the situation of a priest coming to the church for celebration out of devotion, without any necessity, whether for the reason of a journey or for the reason of duty. Since, therefore, the Decrees mentioned above appear rather to support than to contradict the petition, it was considered that nothing prevented the Sacred Congregation from granting the requests.

[*Latin ed. p. 502*]

302 FROM THE SECRETARY OF BREVES. THE APOSTOLIC LETTERS OF OUR MOST HOLY LORD POPE PIUS IX, BY DIVINE PROVIDENCE, GRANTING TO ALL THE FAITHFUL A PLENARY INDULGENCE ON THE OCCASION OF THE ECUMENICAL COUNCIL, IN THE FORM OF A JUBILEE. TO ALL THE FAITHFUL, PIUS PP. IX. Health and Apostolic Benediction. "No one, certainly, is ignorant that We have convoked an ecumenical Council in Our Basilica at the Vatican on the 8th day of the coming month of December, dedicated to the holy conception of the Most Holy Virgin Mary, the Mother of God. Therefore, at this very time, We never cease, with the fervor of Our hearts, to pray and beseech the most merciful Father of lights and mercies, from whom every good gift, and every perfect gift, descends (1), that He may send down from Heaven the helper of His seat of wisdom, that she may be with Us, and labor with Us, and that

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We may know what is pleasing in His sight (2). And that God may more readily grant Our requests, and incline His ears to Our prayers, We have decreed to stir up the religion and piety of all the faithful, that, united with Us in prayer, We may implore the help of the Almighty and heavenly light, by which in this Council..." (1) S. James, chap. 1, verse 17. (2) Wisdom, chap. 9, verse 4, 10.

[*Latin ed. p. 503*]

APOSTOLIC LETTERS. 503 We can establish all those things which most pertain to the common salvation and unity of the entire Christian people, and to the greater glory and happiness of the Catholic Church, and to peace. And since it has been demonstrated that men's prayers are more pleasing to God if they approach Him with a pure heart, that is, with souls free from all wickedness, therefore, on this occasion, We, with Apostolic liberality, resolve to open up the heavenly treasures of indulgences granted to Our faithful, so that, inflamed by true repentance and cleansed from the stains of sin through the sacrament of penance, they may approach the throne of God with greater confidence, and obtain His mercy, and grace in timely help. "Therefore, We announce this indulgence, similar to a Jubilee, to the entire Catholic world. Wherefore, trusting in the mercy of Almighty God, and in the authority of the Blessed Apostles Peter and Paul, and exercising that power of binding and loosing which the Lord has permitted Us, unworthy as We are, to exercise, We grant to all and to each person of both sexes, who dwell in Our beloved City, or who come to it, that if, from the first day of the coming month of June until the day on which the ecumenical Synod which We have convened will be concluded, they visit the Basilica of Saint John Lateran, the principal church of the Apostles, and the Basilica of Saint Mary Major, or either of them, twice, and there, for a certain period of time, devoutly pray for the conversion of all those who are erring, for the propagation of the most holy faith, and for the peace, tranquility, and triumph of the Catholic Church; and, in addition to the customary four-year period, they fast for three days, not necessarily consecutive, namely on the fourth and sixth days of the week, and on Saturday; and within the aforementioned period, they confess their sins and reverently receive the most holy Sacrament of the Eucharist; and they give alms to the poor, as devotion suggests to each; and to all others living outside the aforementioned City, who, after these Our Letters have reached their knowledge, visit the churches designated by the Ordinaries of those places, or their Vicars, or Officials, or by their mandate, or, in their absence, by those who exercise pastoral care there, twice within the prescribed period, and perform the other aforementioned works, We grant the fullest remission of all their sins and indulgences, just as is granted to those visiting certain churches within and outside the city during the

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Jubilee year."

[*Latin ed. p. 504*]

504. APOSTOLIC LETTERS. It is customary to grant the aforementioned benefits, and by these presents, we, moved by heartfelt compassion in the Lord, grant and concede [them], so that this indulgence may also be applied to the souls of those who, united with God in charity, have departed from this life, as a form of suffrage. "We also grant that those who are traveling by sea, or are engaged in journeys, upon their return to their homes, after having performed the aforementioned works and having visited the cathedral church, or the larger church, or the parish church of their place of residence, twice, may obtain and enjoy the same indulgence. Furthermore, we grant that to regular persons of both sexes who perpetually reside within monasteries, as well as to others, whether lay, secular, or regular, and to those who are in prison, or in captivity, or who are afflicted by some bodily infirmity, or by any other impediment, who are unable to perform the aforementioned works, or some of them, that the confessor may, with the approval of the local Ordinary, substitute them with other works of piety, or postpone them to a later time, and may prescribe those things which the penitent can effectively perform, with the faculty of also granting absolution regarding Communion to children who have not yet been admitted to their First Communion." "Moreover, to all and each of the faithful, whether secular or regular, of any Order and Institute, even those specially named, we grant and concede the license and faculty to choose any secular or regular confessor, approved by the local Ordinary (and this faculty may also be used by nuns, novices, and other women residing within the cloister, provided that the confessor is approved for nuns), who may absolve them from excommunications, suspensions, and other ecclesiastical sentences and censures, imposed by law or by any person for any reason, except for those specifically excluded herein, as well as from all sins, excesses, crimes, and offenses, however grave and enormous, even those for which the local Ordinary, or We, and the Apostolic See, reserve a special form, and for whose absolution a more ample concession has not been granted, in the forum of conscience, and who may, in this instance only, absolve and release them; and furthermore, any vows, even those sworn, and reserved to the Apostolic See (of chastity, of religious life, and of obligation accepted from a third party, or in which matters are discussed).

[*Latin ed. p. 505*]

APOSTOLIC LETTERS. 503, always except for the third, to the extent that those vows are perfect and absolute, and also for those which are penal, which are called preservative against sins, unless the future change is judged to be of such a nature that it does not restrain from committing

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sin no less than the matter of the prior vow; in dispensing with other pious and salutary works, always imposing upon them, and upon each of them, salutary penance, and other things which the Confessor may deem fitting to add. "We grant, moreover, the faculty of dispensing with irregularities arising from the violation of censures, to the extent that they have not been brought before the external forum, or are easily brought before it. However, we do not intend, by these present letters, to dispense with any other irregularity, whether arising from a crime, or from a defect, or public, or hidden, or known, or any other incapacity, or disability in any way contracted, nor to grant any faculty regarding the aforementioned dispensing, or habilitating, and restoring to the previous state, even in the forum of conscience, nor to derogate from the Constitution with the appended declarations, issued by our blessed predecessor, Pope Benedict XIV, entitled 'Sacramentum Poenitentiae,' with regard to the inability to absolve a complected person, and with regard to the obligation of denunciation, nor these present letters apply to those who have been, by Us, or by the Apostolic See, or by any Prelate, or ecclesiastical judge, specifically declared excommunicated, suspended, interdicted, or subjected to other sentences and censures, or publicly denounced, unless they have satisfied within a prescribed time, or have agreed with the parties in such a way that they cannot in any way vote or should vote. But if they are not able to satisfy the judgment of the Confessor within the prescribed time, we grant that they may be absolved in the forum of conscience, solely for the purpose of obtaining the indulgences, with the obligation of satisfying as soon as they are able." Therefore, by virtue of holy obedience, by these present letters we strictly command and order all Ordinaries of places wherever they may exist, and their Vicars and Officials, or, if they are absent, those who exercise the care of souls, that, upon receiving a copy of these present letters, or even printed copies, they, when, according to the circumstances of time and place, they shall have judged it best in the Lord, implement these things within their churches and dioceses, provinces, and states.

[*Latin ed. p. 506*]

506 APOSTOLIC LETTERS. Let cities, towns, and places announce, or cause to be announced, that the people, as far as possible, having been duly prepared by the preaching of the word of God, shall visit the Church, or Churches, designated for the present jubilee. "Notwithstanding the Apostolic constitutions and ordinances, especially those by which the power of granting absolution in certain expressly specified cases is reserved to the Roman Pontiff for the time being, so that neither similar nor dissimilar concessions of indulgences and faculties of this kind may be granted to anyone, unless there is an express mention of them, or a special derogation, nor may any indulgences be granted contrary to this, and whatever Orders and Congregations, or Institutes, even those strengthened by oath, Apostolic

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confirmation, or any other means, by statutes and customs, privileges, and indulgences, and by the same Apostolic Letters granted, approved, and renewed to those Orders, Congregations, and Institutes, and to their members in any way, to all and each of which, even if there was not a special, specific, express, and individual mention, but rather a general clause, of the same importance, or any other explicit expression to this effect, the tenor of which would have to be observed, these are, for this occasion specifically, namely, and expressly, for the effect of the foregoing, derogated from, and from all other contrary things whatsoever." We command that, from the aforementioned first of June until the day on which the ecumenical Synod concludes, all Clergy and Priests of both rites throughout the Catholic world add the prayer for the Holy Spirit to the Mass daily, and that, in addition to the customary conventual Mass, the Holy Sacrifice be celebrated in all the Patriarchal Churches, and other Basilica and Collegiate Churches of this City, as well as in all the Cathedrals and Collegiate Churches throughout the world by their Canons, and also in each of the churches of each religious family of Regular clergy, who are obliged to celebrate the conventual Mass, every fifth day, on which the feast of double first and second class is not celebrated, but nevertheless this Mass for the Holy Spirit shall have no application obligation.

[*Latin ed. p. 507*]

APOSTOLIC LETTERS. 507. "In order that the present documents, which cannot be delivered to individual locations, may more easily become known to all, We desire that, by means of copies taken from the present documents, or even by printed copies signed by a public Notary and sealed with the seal of a person holding an ecclesiastical office, the same faith be held in all places and among all peoples, as would be held if the documents themselves were exhibited or shown. " Given at Rome, near Saint Peter, under the Fisherman's Ring, on the 11th of April in the year 1869, in the twenty-third year of Our Pontificate. " N. CARD. PARACCIANI CLARELLI. FROM THE HOLY CONGREGATION OF THE INDEX. DECREE. On the feast day, March 22, 1869. The Holy Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Pope Pius IX, in the Apostolic See, having considered the works that follow, which are condemned for their corrupt doctrine, and with the aim of their suppression, purification, or permission throughout the Christian Republic, condemned and condemns, prohibits and prohibits, or orders that they be referred to the Index of Prohibited Books:

* *La questione Religiosa di ieri e d'oggi, con quattro punti di riforma cattolica* by G. B. Fiorioli della Lena. Padua, Crescini Printing House, 1869.

* *Nuovo Diritto Pubblico europeo* by Count Terenzio Mamiani della Rovere. Naples, 1860.

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* *Teorica della Religione e dello Stato, e sue speciali attenzioni con Roma e le nazioni cattoliche* by Terenzio Mamiani. Florence, 1868.

* *The Church's creed or the crown's creed? A letter to the Most Reverend Archbishop Manning* by Edmund S. Ffoulkes B. D., author of *Christendom's divisions*. In Latin: *Symbolum Ecclesiae*.

[*Latin ed. p. 508*]

508 DECREE. Concerning certain books: A letter to the Most Reverend Archbishop Manning, written by Edmund Ffoulkes, author of the work entitled: Divisions of Christianity, in Hayes, London, L-T. Elements of hygiene by Dr. Paolo Mantegazza, Professor at the University of Pavia, and member of the Institute, second edition revised by the author, Milan, Gaetano Brigola, publisher, 1865. *The Catholic Emancipator*: Journal of the national emancipation and mutual aid society of the Italian clergy. Naples. The aforementioned Society (commonly known as "The Emancipator") had already been condemned by the Encyclical Letter issued by Our Most Holy Father Pope Pius IX on August 10, 1863, addressed to the Bishops of Italy. *Di palo in frasca*. Semi-serious philosophical reflections of a former religious man who deceived Saint Peter. Geneva, 1868. — Decree of the Holy Office, on Thursday, January 27, 1869. *The Rule of the Catholic Faith, and Collection of Dogmas to be Believed*, by Father Philip Nerio Chrismann. Revised and published again by Phil. Jacob Spindler. Würzburg, 1854. Decree of the Holy Office, as above. The author of the work entitled: *The Empire and the Clergy of Mexico*, by the Abbé Testory, Mexico, 1865, submitted himself commendably and the work was disapproved. Therefore, no person of whatever rank and condition, in any place, and in whatever language, may dare to publish, or after publication, to read or retain the aforementioned works, but they must be handed over to the Ordinary of the place, or to the Inquisitors of heretical depravity, under the penalties indicated in the Index of Prohibited Books. These matters, having been reported to Our Most Holy Father Pope Pius IX by me, the undersigned, S.I.C., from secret sources, His Holiness approved the Decree and ordered it to be promulgated. In witness whereof, etc. Given in Rome, on March 24, 1869. ANTONINUS Cardinal DE LUCA, Prefect of the Place. <Sigillum>. Fr. ANGELUS VINCENTIUS MODENA, Order of Preachers, Secretary of the Congregation of Secret Affairs. On March 25, 1868, the aforementioned Decree was affixed and published at Santa Maria sopra Minerva, at the Basilica of the Prince of the Apostles, at the Palace of the Holy Office, and at the Curia Innocentiana, and in other customary places in the city, by me, Aloysius Serafini, Apostolic Secretary. Philippus Ossani, Major Secretary.

[*Latin ed. p. 509*]

509 To His Most Holy Excellency, the Prefect appointed by the Sacred

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Congregation for the Affairs of the Council, concerning the Ecumenical Council of Vatican. Regarding the Vestments Worn by Latin Archbishops and Bishops at the Council of Vatican. LIST:

Of the Vestments and Sacred Garments which the Most Reverend Archbishops and Bishops of the Latin Rite, arriving in Rome for the celebration of the Ecumenical Council of Vatican, will bring with them:

1. Prelatical Vestments in that form which is prescribed in the Roman Ritual, Book 1, Chapter 1, for those holding office from the Sacred Clergy, § 1; and for those promoted from the Regular Orders, § 3: and a black biretta.

2. A zucchetto, of which mention is made in the aforementioned Roman Ritual, Book 1, Chapter 3, § 3.

3. An amice and three pluvial garments, one of the color white, another of the color red, and a third of the color violet; which, however, shall not be adorned with gold or silver, nor painted with needles, or commonly embroidered.

4. A mitre made of white linen.

"ALOISIUS FERRARI, Protonotary Apostolic, Prefect of the Ceremonies of His Most Holy Name and the Holy See."

[*Latin ed. p. 510*]

510 APPENDIX XIII. CONCERNING THE ELEVENTH DAY OF APRIL IN THE YEAR 1839, WHICH CHRIST THE LORD MADE MOST HOLY IN HIS CHURCH THROUGH HIS VICAR. Although it is outside our purpose to speak of things that occur outside the Roman Apostolic Curia, and which do not pertain to ecclesiastical rights and duties; nevertheless, we would seem worthy of some reproach if we were to entirely pass over in silence a day which we have observed to be celebrated with the utmost solemnity by all, in every possible way. Others will recount the individual events and actions which they can gather; we, however, assuming those things, will rather set forth the history of what happened. Although it was not many days ago that Catholic newspapers everywhere reported that, in many parts of the Catholic world, the faithful were gathering in societies to offer homage to the Most Holy Father, on the day that would be the anniversary of the completion of fifty years of his priesthood; and although such signs of homage were announced to be of many different kinds; for some consisted in collecting money, others in receiving the names of the faithful in writing and presenting them to the Most Holy Father for remembrance, others in attending Holy Mass offered in honor of the Supreme Pontiff, or in assisting at the Sacred Synaxis, and others of that kind; nevertheless, these things which were proclaimed by the most reputable newspapers, were true, now that the events had already taken place. For the expectations of all were so far surpassed, that it can rightly be affirmed that all those things which were said to have been done and accomplished were known

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to have been so, even before they were actually done and accomplished. In Rome, above all others, we knew or saw two things, one of which inspired admiration, namely, the abundance of noble gifts and offerings; the other, however, seemed to draw tears or sighs from the eyes, namely, the gathering of humble gifts which arrived from poor villages and towns surrounding Rome. On those days, one might have thought that all the faithful were striving at the same time, as if by agreement, to outdo each other in offering homage to the Blessed Peter, the living August Pontiff, according to their ability. And with regard to the more humble gifts, among the great throng of citizens and foreigners who flocked to the Apostolic Palaces, a place was repeatedly provided, so that those humble gifts, which were publicly presented, could be seen.

[*Latin ed. p. 511*]

XIII. The courtyard was laden with new gifts, carried on carts and pack animals. One moment you would see a cart filled with sacks of grain, adorned with simple yet festive decorations, accompanied by farmhands who would deposit the grain or produce in designated areas within the courtyard of the Apostolic Palace, and then, as if having fulfilled their duty, would return in silence. At another moment, you would see a cart laden with jars of oil and various types of wine; at one time, they would bring lambs, at another, calves. In short, apart from numerous works of art, the courtyard of the Apostolic Palace was filled with all sorts of provisions and goods, from the most basic necessities to the most refined items, so that even those who approached out of mere curiosity would have to be moved by the sight of such profound piety! The Most Holy Father, seeing the most pious significance in such acts of devotion and obedience, which had given him no cause for complaint, could not help but be deeply touched. Just as these excellent gifts and riches were abundantly brought to the Most Holy Father, it recalled to mind what we read happened in the time of the Apostles: "They did sell their possessions, and with the price thereof did they buy meat, and did sell it to others." Thus, these humble gifts recalled to the minds of the pastors the words: "Let us go even unto Bethlehem."

We are certain that all who witnessed this public event, and those who will read the full account of it, along with all its details, and who will not allow any human reasoning to obscure their understanding, must acknowledge that this event cannot be understood without a divine cause, which alone can move the hearts of the faithful and others, with such effectiveness and at the same time, in various and distant parts of the world, to pursue the same goal. For if the effects are to be proportionate to their causes, then the effect you see is extraordinary, beyond human memory; but you would search in vain for a cause for this effect that is proportionate and sufficient within human affairs. You will indeed find some occasion for

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this event, which in itself is quite simple, and which has been granted to other Roman Pontiffs as well, but its significance is not the same. We have indeed observed similar events within a two-year period, which, although they cannot be fully explained without the singular divine providence that constantly attends Rome and the Apostolic See, nevertheless presented occasions that could be considered as causes; such as the centennial celebration of the martyrdom of the blessed Peter and Paul, on the occasion of which the Most Holy Father invited people to Rome.

[*Latin ed. p. 512*]

512 APPENDIX XIII. The hardships of the rulers of the world; moreover, behold the Roman Pontiff! Concerning the perishing of men who attempt to invade Rome, on this occasion, he raises his Apostolic voice: "Lift up your eyes, Venerable Brothers, and you will see, and you will grieve with us deeply for the most grievous abominations by which, especially, the unhappy Italy is now afflicted: for those great things which have happened there could have been explained by an unusual solemnity, which, once seen, one would never wish to see again, and by the offices of piety by which the faithful are bound to the Vicar of Christ by divine right. But none of these things can be said or affirmed with equal certainty concerning that which we are discussing, although it surpasses all that we have seen on those occasions. But just as all those things which are done by the enemies of God cannot be rightly understood without a cause that is contrary to the nature of things, that is, without satanic action, since, when the hour of darkness is, they are carried away by fury and conveniently unite against the Lord and against His Christ; so the most joyous events of those about whom we are speaking cannot be understood without a divine action, which moves and excites their very souls to the same thing, at the same time, with a marvelous effect. And just as the effects of the hour of darkness bear all the characteristics of iniquity, so the effects of the hour of light bear the characteristics of ineffable joy. We are witnesses of both kinds of effects: for the first kind we saw with our own eyes in Rome at the beginning of the glorious pontificate of the Most Holy Father, at a time when, although we were in our youthful years, we could not, without horror, hear the frequent acclamations and the roaring applause of the crowds, of which the Pontiff was not the object of glory, but of sacrifice; we saw that opposition begin lightly against him, gradually and quietly progress, and indeed increase until the present state of the marvelous things of which we are speaking, of which He is the crown and glory. Since these things are so, we are led to think that the height of that hour of darkness has now passed, and is rapidly declining; and that a new dawn has arisen for the Church, of which we have not only had pledges these days, but a splendid foretaste. And it does not seem to be without some special significance (since all things have been portentous), that the most noble signs of obedience were

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offered to Peter, and that both the Heretic and the Schismatic were present; indeed, even the Jew was not absent: all of which, in a certain way, foreshadow that divine promise: There shall be one flock and one shepherd.

[*Latin ed. p. 513*]

513 FROM S, THE CONGREGATION OF THE COUNCIL. ON MARRIAGE. April 17, 1869. Among the many thousands of parishes, who diligently, patiently, and charitably perform the pastoral duties entrusted to them by the Holy Church, it is not surprising that some are found to be lacking in their duty, and even to abuse it; indeed, it would be a wonder if the contrary were to occur. Therefore, all those who, drawing evil from one or another, cast blame upon the entire order of clergy and parish priests, show themselves to be most foolish. Those who judge in this way could themselves be judged by the same reasoning as being simpletons, misers, thieves, adulterers, since the human race, to which they themselves at least belong, is not lacking in such men. Summary of the case. Agnes, born of honest parents, was thirteen years old and lived with her mother alone, while her father was away in distant regions. The parish priest had this small family under his care, as it were. Now, since the parish priest himself had a young nephew, Anthony, who was engaged in his studies, it happened that certain signs of mutual affection and love appeared between Agnes and Anthony. The parish priest believed that his nephew, who was dressed in clerical attire, would certainly enter into marriage with Agnes with greater certainty if the announcements of the marriage were not delayed; and so he acted. There was also in the same city a young man named Livius, twenty-four years of age, of good character, who had given his name to a certain Religious Order and lived among its Oblates as a lay brother; this Livius was not entirely unknown to the house of Agnes, and it was said that he possessed a certain property, that is, a small house and a piece of land. The parish priest, who was indebted to Livius for a certain sum of money, suggested to him the marriage.

[*Latin ed. p. 514*]

14. MARRIAGE. Agnes, who possessed a suitable dowry, could have lived happily in marriage. Although Livius did not accept the Parochus's suggestion, he is said to have consented unwillingly. Thus, with Livius's consent already secured, the Parochus began to suggest this marriage to the girl's mother, even though the mother initially did not agree. However, after the Parochus's persistent urging, she eventually agreed, convinced that such a marriage would be fortunate and happy. To achieve his desired outcome more effectively, the Parochus also enlisted the help of the girl's uncle, whom he considered a friend due to their close relationship. With their minds thus prepared, the mother first proposed the prearranged marriage to her daughter, who, upon hearing the proposal, was greatly dis-

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tressed. Secondly, the uncle proposed the same thing, and it is said that the girl, disturbed, shed tears and declared that she knew nothing about these matters. While the mother was filled with hope for a prosperous future, she is said to have proceeded further, resorting to threats, vexations, and even physical blows, but the girl remained unmoved in her opposition. As they carried out their plan in secret, they made all the necessary arrangements simultaneously to ensure the marriage was celebrated as quickly as possible: the documents proving the parties' freedom to marry were prepared; the customary announcements were omitted in the church. Meanwhile, the girl was kept under strict guard, and she was not allowed to speak with anyone. Indeed, it is affirmed that the Parochus, in a brazen and insolent manner, denied the girl's request to speak and confer with her Confessor, a most virtuous man. Under these circumstances, on August 1, 1848, Agnes was informed in the evening of the marriage, which was to take place that very night; upon receiving this news, the girl is said to have fainted and shed tears, and was unable to eat or sleep. The second hour after midnight, upon being summoned by her uncle, Agnes was taken by her mother to a certain chapel or oratory, where everything was prepared. The Parochus, the uncle, the girl's mother, and also a certain Titus, who was called "av-" were present.

[*Latin ed. p. 515*]

MARRIAGES. 515 The stepson, ignorant of all things, had been forcibly removed from the highest position the very night before, under a deceitful pretext, so that he might approach the designated temple. Titus testified in the records that he had been overcome with astonishment when he saw the girl so weakened and depressed that it aroused his compassion: he remembered well that he had almost taken the girl out of the temple; nevertheless, he refrained, first out of reverence for the place, and then because the parson had commanded him to remain silent when he complained. He also remembered well that he had said to the girl the next day that he had felt compelled to take her out of the temple, and that the girl had replied, "If only you had!" While Titus was considering this with her, Agnes, through the briefest possible sacramental confession before the parson, and, as she herself said, with every possible reluctance, repeated her refusal to enter into that marriage, to which he replied that this was childishness; and that if she did not do so, she would regret it. Livius had dressed himself in secular garments that night. Both were summoned to the altar and approached, and were questioned as is customary, in the presence of all those whom I remember. The lack of a nuptial ring was made up for by the mother, who took one from her own finger and gave it to the parson to bless. Livius was found to be in a state of mental ease; Agnes, on the other hand, was moved to compassion, and uttered her affirmative consent in so faint and subdued a voice, that, according to the testimony of Titus, he barely heard

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it. What followed, we learned from the same Titus in the records: "I was greatly saddened by my stepson, because he had deceived me so, and I immediately told him that I did not approve of those actions in any way, and that I considered that marriage to have been celebrated against the girl's will, which I had so clearly seen suppressed. To which he replied that I should be silent, and not reveal this to anyone... Later, I learned that the girl had been resisting and was extremely distressed, and that thirty days later she told me that she had been forced and deceived by her mother and the parson, and that she wanted to suffocate herself." All of this is in perfect agreement with the sworn deposition given at that time, both by the mother and by Livius, who further added that Agnes had not only uttered her affirmative consent in a subdued voice, but that she had done so after being repeatedly questioned by the parson, and that at the same time she had been weeping.

[*Latin ed. p. 516*]

516. MARRIAGES. To this is appended the testimony of the girl, in which she describes the extreme confusion and distress she felt as she was led to the church, and that at that moment she was so terrified that she suffered a heart ailment from which she never fully recovered, and as a result, she could no longer enter the church. And, as she herself continues, "When I was led to the altar, I was in such a state of confusion that I cannot say whether witnesses were present nearby or at a distance, whether my mother was present, or whether I even noticed that a ring was being placed on my finger..." She recalls that, after the ceremony, she came closer to the ring, which she abhorred; she suddenly pulled it off her finger and threw it into a pear, and then threw the pear into the middle of the room. Besides these testimonies from those present at the celebration, no other evidence can be obtained, since both the parish priest and the uncle have long since passed away. Livius is said to have visited the house of Agnes on the same day, but he immediately left and went elsewhere, and he never visited Agnes again, nor did he ever see her except on one occasion by chance. The following points are relevant to the complete account of this event: 1° The parish priest, perhaps fearing that some unfortunate incident might occur due to trickery, when asked whether the marriage had been celebrated, gave a negative answer; 2° The marriage was not recorded in the parish registers until 1848, although other marriages celebrated later were duly recorded; 3° To those who could not deny that the celebration had taken place, he responded in the strictest confidence that it was a clandestine affair, intended to sever all ties of affection with his nephew. Afterwards, the girl sought to be released from the marriage bond; she did everything she could to obtain this grace from the Holy See, from which she received a response stating that the case should be presented according to law in the ecclesiastical court; however, she was unable to bear the expenses for

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several years; finally, the Bishop initiated a process, which the court was able to conclude after a period of seven years. The process was conducted accurately according to the Benedictine Constitution. However, the examination of the man was lacking, as the Defender of the Marriage, by office, was absent. For Livius resided in another diocese, and his examination was waived by the court of that diocese, according to the...

[*Latin ed. p. 517*]

OF MARRIAGES. 517. The following is extracted from the decree of the Holy Congregation, published on August 22, 1840, which we presented in Volume I, page 439: "If it should be known that there are parties who cannot conveniently access the City... either at the request of one party, or in the absence of one party, at the request of the Defender of the marriage, they shall be examined by the Bishop of the diocese in which they reside, according to the questions prepared by the aforementioned Defender, and the completed and signed documents shall be transmitted to a designated, upright man appointed by the same Bishop, who shall fulfill the requirements prescribed in the aforementioned Bull of the Most Holy Pope Benedict XIV, and who shall perform the duties of Defender of the validity of the marriage and be present at the examination. In the double examination that Livius underwent, the prescribed Defender was not present. The witnesses who are listed in the proceedings are as follows: 1° Two individuals serving in the church; 2° Titius, the stepfather of the uncle; 3° The lengthy examination of Agnes, except for [certain parts]; 4° The mother of Agnes; 5° The nephew of the deceased parish priest. Subsequently, such documents were sent to the Curia B., under whose jurisdiction Livius resided, and together with the questions prepared by the Defender of the marriage, Livius was examined by the Curia, according to the aforementioned questions, but without the presence of the Defender of the marriage, as I have said. After this, the case was referred to a seventh examination, that is, seven witnesses were presented by the woman's side, all of whom testified, especially regarding the continuous absence of Livius immediately after the marriage was celebrated; and also regarding the good character of Livius, of Agnes, and of her family. The Curia B. was requested to conduct a seventh examination; but Livius presented no witnesses, since this matter was entirely unknown in the city in which he resided. The case was then considered in its own episcopal curia, and the Defender of the marriage, that is, the Canon Theologian, presented his opinion in favor of the validity of the marriage; and, conversely, in favor of Agnes, another wrote to demonstrate the nullity of the marriage. Finally, the Vicar General, having knowledge of the case, rendered judgment: that the marriage was null and void from August 2, 1848, etc. From this judgment, according to his proper office, the Defender of the marriage appealed to the Apostolic See in the second instance. When the parties requested that the case be handled economically, such requests

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were graciously accepted, and, as is customary, two opinions were...

[*Latin ed. p. 518*]

518. MARRIAGES. One aspect is treated by theologians, another by canonists, and a third concerns the observations of the defender of the marriage, regarding the economic handling of such cases. A synopsis of the discussion. Two consultants arrived at the same judgment of nullity of the marriage: "from their very words, the strongest arguments can be drawn."

REASONS PRESENTED FOR THE NULLITY OF THE MARRIAGE. It has been observed that, according to the law, the marital union, which is the origin of the family, carries with it perpetual obligations informed by the bond of love; and that it is considered by the sacred canons as an act of counsel and choice. Regarding this, Alexander III, in chapter 1, paragraph 4, concerning betrothal and marriage, responded: "Where there is no place for consent, where fear or coercion intervenes, it is necessary that, where the consent of someone is required, the matter of coercion be removed. For marriage is contracted solely by consent, and where this is questioned, it must enjoy full security, the state of mind of which must be investigated, lest someone, out of fear, say that they consent to what they hate, and thus suffer the consequences that often result from marriages entered into against one's will. Although, in law, it is said that grave fear is that which usually overcomes a steadfast man, and that grave fear is required to rescind or declare contracts invalid, nevertheless, since fear consists in the subjective affection of the mind, the quality of the person who experiences the fear must also be considered; therefore, the Doctors admit what is called reverential fear, and hold it in equal estimation with grave fear when serious circumstances concur, considering the condition of the person; regarding this, Engel comments in the title on betrothal and marriage, § 5, n. 4: "In this question, setting aside the opinions of others, I briefly state that reverence due to a superior cannot indiscriminately be alleged as a pretext for fear, otherwise there would be no place for a valid contract... in the presence of parents, if any cavil were allowed based on the pretext of reverence... But if, besides reverence, other circumstances also concur, from which it can be concluded that someone was truly unwilling; such as dangerous threats, importunate persuasions, and, if I may say so, if a modest contradiction would not help, then even reverential fear must be considered a just fear."

[*Latin ed. p. 519*]

MATRIMONY. 519 Furthermore, Pignatellius, *Consul*, 130, i, 9, n. 1, §; *Clericatus Decis.* 37, *de Matr.*, n. 2, 4, and others. Even more so, because, when it is a question of marriage, a greater and more perfect consent is required than in other contracts; concerning which, Pontius wrote in *de

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matrim.*, I, 4, c. 14, n. 16: "a greater and more perfect consent is required than for other civil contracts, which is fitting because of the perpetuity of the marriage bond." St. Thomas. Indeed, since other contracts are of lesser importance and, by their very nature, are dissoluble by human authority or by mutual consent, it is not surprising that they are entered into with a mixed will. Furthermore, Ursaia, *Discip. Eccles.*, vol. 9, p. 1, discourse 38, n. 2, which doctrine is commonly accepted after St. Thomas, as stated in the addition to the 3rd part, question 47, article 3. This opinion is consistent with the cited text of Alexander III. With these principles established, when fear exists in the mind, as has been said, and it is difficult to prove by that selected and prescribed type of evidence that is usually required in other cases, then those witnesses and means of proof are admitted that would otherwise not be admitted: therefore, domestic servants, parents, and the sworn confession of the one who has experienced the fear, are admitted as evidence; especially if other presumptions concur. Furthermore, those who have instilled the fear cannot be rejected on the usual grounds, because the one who alleges his own wrongdoing should be heard; concerning which, the Holy Rota, in *Decis.* 373, n. 13 and 14, part. St. 1, *Recent.*, states: "It is even more so, because a brother and sister, by stating that the fear was instilled in them by themselves, allege their own wrongdoing; because they do not, therefore, provide less proof for Peter, who was unable to produce better witnesses to prove the fear, than those who instilled it and testify about the fact from their own experience." Therefore, once this type of evidence is admitted, the investigation of the judge and the prudent judgment of the same must hold the greatest weight in these proceedings; hence, Reiffenst., *lib.* i, *Decr.*, title 40, n. 79, wrote: "For who here and now can determine what constitutes a just fear sufficient to invalidate an act... and the quality and force of conjectures are left to the investigation and judgment of the judge." Once these things have been ascertained and explored, it is easy for both Counsel to demonstrate, from the series of events presented, that in the present case, the girl was forced to enter into that marriage.

[*Latin ed. p. 520*]

S20. OF MARRIAGE. And that the coercion could not have been overcome by the young girl from Dender, who had no means of escape. This was demonstrated by the careful arrangement of events, by the circumstances that were present, and by those that followed. We refrain from detailing these matters, since our learned readers can easily perceive them from the sequence of events.

OBSERVATIONS OF THE DEFENDER OF MARRIAGE. The Defender of Marriage, besides the observations made regarding the absence of witnesses to the marriage in the examination of Livius, which we have discussed, sought to demonstrate, with regard to the merits of the case, that

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the alleged coercion in the present matter was lacking. He pointed out that Agneti was unknown to Livius, although she occasionally visited his home because of one offense or another; indeed, two witnesses, although they stated that they had no prior knowledge whether Livius loved Agneti, nevertheless testified that, based on hearsay, he had shown her some affection. He asserted that the accusations made against the deceased Parish Priest, both by the girl's mother and by the girl herself, were false: that the Priest had proposed marriage for the good of both Agneti and her family, and that the marriage had been recommended and encouraged by the girl's uncle, in the hope of happiness, and that there was no reason for coercion.

Furthermore, since the Defender claimed that there was no cause for coercion, he took care to suppress the evidence of alleged fear, especially because the most important pieces of evidence were lacking: the judicial confession of Agneti and the testimony of her mother. However, these were not to be considered, since the former was the plaintiff in this controversy, and the latter was the accused of having been coerced. Nor was any weight to be given to the statement of one witness regarding the girl's distress during the celebration; for, besides the fact that one witness does not provide reliable testimony, it is natural for timid and inexperienced girls to be somewhat apprehensive during the celebration. Nor could anything be inferred from the fact that the marriage was celebrated secretly and in a foreign church; for, when the Parish Priest was asked about this at an appropriate time, he replied that it was done to avoid certain objections, since the groom was a Regular [Cleric].

Moreover, he refuted the contradictions and falsehoods in the testimonies of both Agneti and her mother, since they did not agree in their account of whether Livius had accompanied the girl to her home after the celebration.

[*Latin ed. p. 521*]

MARRIAGES. 521 or immediately departed to another place; this they themselves affirmed; whereas, conversely, Livius affirmed that he had taken Agnes home with her mother and others, where they also tasted Arabian wine; afterwards, her Religious brother arrived and took him to another city. Furthermore, they do not agree in affirming whether Livius entered Agnes's house to take her to the temple with her mother, as Livius affirmed; whereas, both Agnes and her mother, not entirely agreeing with each other, one said that Livius was already in the temple, the other, that he arrived later. In these depositions, a certain contradiction appeared, and the Defender concluded that the credibility of the other of their depositions should not be accepted. Moreover, he added that, although the adduced depositions showed that fear was present for some reason, it was not sufficient to declare the marriage null, since a grave fear is required: for a grave fear requires 1° that the evil feared be grave in itself and not merely

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in the estimation of the one fearing; 2° that a prudent reason be present for fearing, and not a light and irrational one; 3° that the one who instills fear be able to carry out the threats; 4° that the one who fears be unable in any way to resist the threatening one or to avoid the evil that is feared. However, if any of these conditions are lacking, the fear is considered light, and does not apply to a steadfast man. He affirmed that none of these conditions were verified in this case; that the mother had not threatened Agnes with any evil; nor was there any kind of evil present; and therefore, any reason for fear was absent. Nor does it matter that the mother gave her daughter a slap: for, if this evil were to be considered grave, all girls, especially those of lower condition, would constantly experience a grave fear. Furthermore, if the brother of Livius had not taken Livius away from Agnes's house after the celebration of the marriage; and if Livius possessed a small house and a piece of land, he would certainly still be living with his lawful wife. After these and other lengthy arguments, the matter is to be resolved concerning the doubt: "Whether the judgment of the Court... should be confirmed or overturned in this case."

[*Latin ed. p. 522*]

522. MARRIAGES. RESOLUTION. The Holy Congregation, after discussing the matter in the meetings held on April 17, 1869, decided to respond as follows: That, with a prior dispensation of the defect of the absence of the Defender of the Bond, by reason of office, having been granted to the man, the sentence should be confirmed. From which the following are gathered: I. The presence of the Defender of the Bond, by reason of office, which the Benedictine Constitution prescribes for each judicial act under penalty of nullity of the acts, must also extend to judicial acts entrusted to another Judge, under whose jurisdiction the person to be examined is found. II. It is not sufficient to have a written inquiry prepared by that Defender of the Bond who is present in the judgment in which the action is brought. III. However, such prescribed forms, if they do not appear to hinder the investigation of the cause, may sometimes be dispensed with by the Holy See. IV. The matrimonial contract, being an unbreakable bond and carrying with it the most serious obligations, ought to enjoy greater freedom than other contracts. V. Therefore, consent obtained under grave and direct moral pressure cannot in any way have a natural proportion with the perpetual bond which is established by divine law through marriage (1). VI. Hence, by this very fact, the marriage is null; however, it requires the ministry of a Judge in the external forum, not to invalidate the marriage, but to declare it invalid. VII. In the present case, the young woman was, in every way, surrounded and coerced, and was not free to signify her consent to the marriage before the Parish Priest, regarding the man whom she positively did not want. VIII. Considering the aforementioned circumstances, the signification of said consent appeared,

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rather, to have been the signification of consent by the mother and others, rather than by the young woman herself. (1) Compare what we noted in a similar case in Volume II, page 19.

[*Latin ed. p. 523*]

523. REGARDING COMPENSATION EXPENSES AND THE PAYMENT OF THE PENSION. On March 21, 1868, and February 27, 1869. Summary of the matter. In the year 1842, a new parish priest was appointed to the parish of Saint Anthony in the town of N, in the diocese of Italy, with the obligation of paying a perpetual pension of 20 scudi to another small parish, Saint Mary, or to the parish priest of that parish for the time being. A condition was added in the Apostolic Bulls, that this pension should be paid when another pension of the same amount, in favor of a certain priest, Livius, ceased, with which the same parish of Saint Anthony was already burdened; however, as long as this first pension continued, the same parish priest should pay to the aforementioned parish priest of Saint Mary each year a certain measure of wheat, commonly called a "ruhl." Since it is customary for the Apostolic Chancery to require those to whom pensions are granted to pay certain expenses to the Chancery officials, which they then retain in order to pay the initial installments of the pension, the parish priest of Saint Anthony paid expenses of 26 scudi for the reservation of the pension, which were to be compensated by the then-existing rector of the parish church of Saint Mary, and were to be paid in place of the aforementioned perpetual payment, as is due by law. These events occurred, as I said, in the year 1842. In the year 1857 (at which time the parish priest of Saint Mary was not yet receiving said pension, but only the measure of wheat), he received another pension of 20 scudi, with the clause that until the revenues of the church of Saint Mary increased, he would burden another town parish, R, for a reason which I will mention. Near the parish of Saint Mary, a certain portion of the parishioners belonged to the parish of Saint Mark, located within the town of N. The care of these souls belonged to the parish of Saint Mark. This separation of parishioners, as it was then, was very inconvenient both for those parishioners and for the parish priest of Saint Mark. Therefore, the Bishop, in order to preserve what was to be preserved, separated this portion from the parish of Saint Mark and canonically united it to the parish of Saint Mary. But, since no payment of fruits or revenues could be imposed on the parish priest of Saint Mark...

[*Latin ed. p. 524*]

524. REGARDING THE COMPENSATION EXPENSES for the Church of St. Mary, due to the poverty of its revenues, the Bishop, while the aforementioned parish of R. remained vacant, took care that Benedict, the new Parish Priest of R., would agree to the imposition of a pension of 20 scudi in favor of the Parish Priest of St. Mary, until the revenues of the latter increased.

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With the consent of the Parish Priest obtained, he informed the Apostolic Delegation of these matters, through which Apostolic Letters were issued with the following words: "We desire that both the aforementioned Benedict, and his successors in the parish, shall annually pay a sum of twenty scudi... from this day forward and for the present time (to the Parish Priest of St. Mary)... until the revenues of the aforementioned church of St. Mary are increased, and that they shall be obligated to pay this sum each year, with the understanding that the aforementioned Parish Priest shall be free to determine, at his own discretion, the parochial duties to be performed, even if they involve a greater extension of the parochial territory." Matters proceeded peacefully until the year 1866, when, upon the death of the Priest Livius, complaints were immediately raised and brought before the Sacred Congregation of the Council. For, with the death of Livius, the opportunity arose for the permanent payment of the pension in favor of the parish of St. Mary, the Parish Priest of St. Anthony requested compensation for expenses of 26 scudi, as was due, but the new Parish Priest of St. Mary (for the former Parish Priest no longer administered that parish) petitioned the Sacred Congregation of the Council, requesting that he not be held liable for the reimbursement of those expenses: which is one point of the matter. Furthermore, he argued that he was still owed a burdensome pension by the parish of R., a pension which the aforementioned Benedict refused to pay, due to the perception of another and permanent pension: which is the second point of the matter. Therefore, with the customary formalities observed, this matter was brought to discussion.

DISCUSSION (synoptic). THE ARGUMENTS PRESENTED BY THE PARISH PRIEST OF ST. MARY. — Regarding the first point of the matter, the Parish Priest of St. Mary argued that he was not obligated to pay for those expenses, first, because his predecessor had received wheat for more than twenty years, and he was never informed of the aforementioned expenses, which were at any time due, and which he, at least in part, should have paid; and second, because in the letters of his appointment, by which he was assigned to the parish of St. Mary...

[*Latin ed. p. 525*]

AND REGARDING THE PAYMENT OF THE PENSION. It had been 525, and not a word had been said about any, even the smallest, compensation for expenses: therefore, he said, it was unjust to be forced today to bear a burden that had hitherto been unknown, and which he had not undertaken when he assumed the charge of the parish. As for the temporary pension that was being paid by Benedict, he argued that it did not cease with the acquisition of a permanent pension, since that temporary pension was being received by him because of new parochial burdens that he had undertaken: burdens which were indeed not light, since the members of his parish were working very hard and were in great poverty, and had even increased the

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parish by a third. If a condition had been attached to the imposition of this pension, namely, that it would continue until the income increased, it could not be said that this condition had been fulfilled, since the permanent pension had existed for a long time, so that, while Benedict was paying the temporary pension, the parish priest of St. Anthony was also paying a ruble of wheat. Furthermore, the cessation of the temporary pension of 20 scudi, along with the cessation of the payment of the wheat, meant that the income of the parish, through the receipt of the permanent pension of 20 scudi, was not only not increased, but diminished. However, canonical justice requires that, for new burdens that are permanent, a corresponding permanent emolument be established; and if this had not been done through the generosity of the predecessor, at least that condition should be understood to be in his favor, since emoluments must correspond to burdens.

WHAT THE PARISH PRIEST OF ST. ANTHONY PRESENTED IN OPPOSITION. Regarding the first question, the parish priest of St. Anthony stated that he had not been obligated to inform the parish priest of St. Mary about the debt for expenses, whether because the day for compensation had not yet arrived, or because a warning was not necessary, since it is well known that, when accepting honors, burdens must also be accepted. Regarding the second question, the parish priest K. noted that the income of St. Mary had increased due to the death of the priest Livius, because of the receipt of the permanent pension: he stated that he had foreseen this and had therefore given his consent to the imposition of the temporary pension.

[*Latin ed. p. 526*]

526. The compensation for expenses incurred in undertaking the parish of R. is a condition attached until the revenues increase, and it is of a general nature, not tied to any specific amount; therefore, whenever a suitable increase has been obtained for the parish of S. Maria, the condition is fulfilled: a suitable increase having been obtained for the aforementioned parish, when it is placed in an equal amount of pension. Furthermore, in the calculation of 20 scudi of perpetual pension, it is not possible to deduct 6 scudi, which the Parish Priest of S. Maria himself estimated to be the value of a rubrum of wheat that he was losing through the acquisition of said pension: for that rubrum of wheat had been obtained as long as the receipt of the perpetual pension remained suspended. But if, even after deducting 6 scudi, 14 scudi could not be considered a suitable increase, it would follow, he says, that his temporary pension would become perpetual, since it would be very difficult for other revenues to be obtained for the same parish. Nor can the pre-existence of the perpetual pension be opposed, since it consists only in a right, and not in revenues: on the contrary, the condition attached to the pension that he receives has not considered the rights, but the actual

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revenues of the parish of S. Maria. Furthermore, a new observation was made, based on the fact that the parishioners attached to the chapel of S. Maria did not belong to the Parish Priest of R., but to the Parish Priest of S. Marci, whose Parish Priest was named by a certain commendatory knight of the Order of Jerusalem. Therefore, if new burdens were added to the parish of S. Maria, it would seem that they deserved compensation, and that this compensation should not be received from the Parish Priest of R. With these and other observations, the following questions were proposed: "I. Is there a place for compensation for expenses in favor of the Parish Priest in this case? (S. Anthony's). II. Has a place been made for the resolution of the pension? (Parish Priest of R.) with regard to the rector of the church of S. Maria in this case?"

RESPONSE. – The Holy Congregation of the Council, having knowledge of the matter on March 21, 1868, decided to respond as follows: To I. Affirmative, through the retention of a fixed portion for a four-year period. To II. Deferred; and write to the Bishop.

[*Latin ed. p. 527*]

AND REGARDING THE SOLUTION OF THE PENSION. 527. PROCEEDING WITH THE CAUSE. — It was written to the Bishop by order of the Holy Congregation, that he should more carefully ascertain the amount of income which the Parish Priest of Saint Mary received from the parish; especially those who are said to be of uncertain standing, and also how much income the Parish Priest of the parish of R. received, and that he should also report if he found anything else that was relevant in the records of the Curia. The Bishop, fully complying with the instructions, among other things, noted that nothing relevant was found in the records of the Curia; and he judged that the records of the Curia, transmitted to the Apostolic Datary in the year 1857, could be examined, and if in the exposition of the active and passive state of the parish of Saint Mary, a pension burdening the parish of Saint Anthony in favor of the Parish Priest of Saint Mary was found, it would be a serious indication that the pension imposed on the Parish Priest of R. was established in addition to another; otherwise, it would not be so. Therefore, the records in Rome were examined, and not a single word was found about the aforementioned pension. However, the income of both parishes was very meager. NEW OBSERVATIONS. — The Parish Priest of the parish of R. endeavored to further defend his rights through his lawyer. The lawyer briefly repeated and corroborated, with authorities, what the Parish Priest had already stated; he insisted on the condition attached to the pension, which condition had been verified. Furthermore, he added that the Canonists teach that a pension is a servitude imposed, therefore, it must be declared for its extinction and liberation, *De Luca de Pens. disc. 70 n. 8*; even more so, since the matter at hand concerns a pension imposed

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on a parish: and it is important to note the Constitution of Benedict XIII, which begins *Quanta pastoribus* in the month of September, published in the year 1724, in which he wished, and as far as possible, recommended that pensions not be imposed by Apostolic authority on parishes, so that individual Parish Priests might be able to contribute the surplus to the poor of their parishes. And in the present case, the question is not about poverty, but about *right*: for if the matter were about the poverty of the parishes, that would be a different matter: *Se Africa iange Italia non ne ride*, that is, if Africa laughs, Italy does not laugh. Therefore, the question regarding the second doubt was presented before the Sacred Congregation on February 27, 1869, and the Holy Congregation responded: Affirmative in all respects.

[*Latin ed. p. 528*]

528. ON EXPENSES AND PAYMENT OF PENSIONS. From which you may gather: I. Although pensions established upon ecclesiastical benefices are to be paid without delay, nevertheless, they do not thereby lose their nature, which is a burden upon the benefice and a servitude. II. Therefore, pensions imposed under the condition that they cease until the income of the one to whom they are paid is increased, and a suitable increase in income occurs, cease precisely when that increase in income takes place. III. Furthermore, you should strive to abstain from imposing pensions upon parochial benefices as much as possible (1). ON THE BURDEN OF MISSES. On April 17, 1869. Summary of the case. Anthony L., in his will of the year 1715, bequeathed a legacy for Masses in the Archpriestal church of N., stipulating a daily Mass, with an alms of ten obols assigned for each, and left suitable funds for this purpose. Three years later, that is, in the year 1718, the priest of the same family as Anthony, who at that time was fulfilling this pious legacy, obtained from the Sacred Congregation [of Rites] a reduction of the Masses to two hundred per year, with twenty obols for each, and also granted the Archpriestal sacristan two scudi per year and ninety obols for sacred furnishings. In the year 1808, another heir of the same family, L., presented a supplication to the Reverend Fabric of Saint Peter, in which he stated that he was burdened by the obligation of two hundred Masses, and requested a reduction for this reason, because while the testator had assigned ten obols for each Mass, each priest then demanded fifteen obols. After these petitions were presented, Pope Pius VII, of blessed memory, reduced the aforementioned two hundred Masses to eighty. Thirdly, in the year 1865, another from the same family petitioned the Sacred Congregation [of Bishops and Regular Canons] for new reductions of Masses, and his petitions were rejected. (1) Compare the reason which I have adduced

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in Volume II, page 222.

[*Latin ed. p. 529*]

ON THE BURDEN OF MISSES. 529 Since there was a certain discrepancy in the records, and the parish priest had never paid the dues to the Archpriest's sacristy of two scudi (2, 90), and since the parish priest was now requesting a new reduction, alleging that the customary alms for Misses in the diocese had been reduced to twenty oboli (20), the Bishop suggested to the Archpriest that he present the matter to the Sacred Congregation of the Council, explaining the conditions under which the legal dues for Misses were being levied, so that they might determine what should be done. After the Archpriest made his requests, the Sacred Congregation, after examining the matter and hearing all those concerned in writing, and after transmitting a copy or exemplar of both said documents along with the requests in full, and after the Bishop reported on the annual income and expenses of the chapel, and on the rightful claims of the Orator, the praised Bishop fully satisfied all these requirements.

REMONSTRANCES OF THE PARISH PRIEST. The parish priest, L., whose requests had most recently been rejected by the Sacred Congregation, the Bishop, and the Royal authorities, stated that he could not understand why, after a long interval of time, mention was now being made of twenty oboli for each Miss, and of two scudi and ninety oboli for the Archpriest's sacristy, when in the requests presented in the year 1808 by the Reverend Fabricae of St. Peter, no mention was made of these things, but only of the need to increase the stipend for Misses to ten to fifteen oboli; and even more so, because it was only in the present age that the custom of increasing this stipend to twenty oboli had begun in the diocese. He also stated that he could not be accused of presenting false requests, since the Bishop of that time, during the sacred visitation, had recognized the Rescript and had determined that eighty Misses should be celebrated, with the customary alms of fifteen oboli for each, and nothing more; and furthermore, that subsequent observance over fifty years had confirmed this. He added that, if the first Rescript could not now be denied, even though it had been said to have elapsed for one hundred and fifty years, it was improper to now object to the practices that had been followed for so many years. Furthermore, he stated that the endowment of this lay chapel, according to its original foundation, consisted of annual payments of four scudi and ninety oboli (4 8, and 90).

WHAT THE ARCHPRIEST ALLEGED. Here, the Archpriest presented a decree of the Bishop from the year 1718, in which it was stated that two hundred Misses should be celebrated with a stipend of twenty oboli (20), and furthermore, two scudi and ninety oboli (2, 90). Acts, volume IV, sec-

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tion XLVI, 34.

[*Latin ed. p. 530*]

530 CONCERNING THE CHARGES OF MASSES. Concerning the furnishings to be applied. The Archpriest stated that in the year 1808, the heir had not declared in his prayers that he was unable to fulfill his obligations, and that the legacy had already been subject to a reduction; and that if he had declared such inability, he certainly would not have obtained that reduction or settlement with the R. Fabric. Furthermore, he noted that the lands of the chapel were not, as the heir indicated, those that had existed from ancient times, since the same Archpriest testified that he had heard that, since the year 1832, the ancient lands of the chapel had been converted into other properties. Moreover, even admitting the old valuation of the lands, since the revenues had not been diminished, which the heir conceded, the charge of two hundred Masses, with the obolus, amounting to 20, and also the annual sum to be paid to the sacristy, could not be considered a reason for reducing the number of Masses. "Concerning what should be done in this case."

RESPONSE. The Sacred Congregation of the Council, after considering the prayers presented in the assembly on April 17, 1869, responded as follows: "Affirmatively, and with the celebration of thirty Masses, and with the offering of six pounds of white cloth made for the sacristy of the Church, for the sake of absolution and remission for past omissions; but in order to ensure the firm fulfillment of the annual charge of two scudi and ninety oboli to the aforementioned sacristy in the future, the reduction to two hundred Masses, according to the Rescript of the year 1718, shall be maintained, provided that the heir gives his word to this effect, and the Bishop shall ensure that the charge is described in a table, and that the goods and rights of the pious legacy are safely kept."

FROM WHICH WE GATHER:

I. That pious legacies for Masses, which are imposed upon heirs, are easily subject to negligence and subversion.

II. That when lands or goods are left for a pious cause, and therefore the Church is obligated by the testator, it is the duty of the Ordinary to protect those goods, since the heir is both the guardian of the Church's rights and of the pious intentions (1).

III. That the first reduction, requested by the heir, obtained a reduction in the number of Masses, but not in the revenues (1).

(1) Compare what I have written in Volume H, pages 369 and following.

[*Latin ed. p. 531*]

ON THE BURDENS OF OBLIGATIONS. 531 IV. According to the decree

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of reduction, it having been secretly introduced, therefore, no one can object to it. V. You finally gather that a long prescription, which is attached to a title and which, of itself, does not harm the pious will, does not have the force of prescription against a clearly established law.

OF CONVENTUAL MASSES. April 17, 1869. Summary of the case. The Bishop of the Diocese of N. at the end of the fifteenth century, in order to promote the prayers of the chaplains in his Cathedral, established a certain union of benefices. For the Bishop considered that there were several chaplaincies established in the same church, and that, because of the small and insufficient endowments of these chaplaincies, the church was forced to dismiss several chaplains for a large part of the time, which caused a serious detriment to the divine cult; he also considered that if all the fruits of the individual chaplaincies were reduced to one Mass, that is, to a single fund, and were distributed among the chaplains residing and serving there, and if the number of chaplains were reduced to only twelve, then the aforementioned inconveniences would be avoided. Therefore, with the consent of the Chapter and the chaplains, he established and suppressed this union, and imposed the following obligations on the chaplains, namely, that "all" the aforementioned chaplains, on each weekday and feast day within the week, should sing one Mass and recite the Divine Office; but on Sundays, they were obliged to recite ten Masses, so that "on each feast day and weekday, seven Masses perpetually, and on Sundays...ten Masses" would be celebrated by the same chaplains in the same church, and that four of them should be appointed to sing the Masses of this kind within the week, and that they should also provide, on the aforementioned Sundays, a Deacon and a Subdeacon to serve at the Masses to be sung in the said church... And furthermore, that all the chaplains in the city...

[*Latin ed. p. 532*]

532. MISSÆ CONVENTUALIS. "Quoad eos qui, dum manent in loco (N.), et cum non subsistet impedimentum legitimum, in diebus dominicis et festis, et etiam in diebus non festis, teneantur ad participandam, durante horis canonicis et officiis divinis, in dicta ecclesia, mediis horis, inter eos presentes et non impediti..." "Ad confirmandam autem stabilitatem huius dispositionis, Episcopus, Capitulum, et Cappellani, rogaverunt Sedem Apostolicam, ut robur confirmationis adderet: confirmationem quam per Litteras in forma Brevis anno 1498 obtinuerunt." Post haec, silentium diuturnum usque ad annum 1723, tempore quo Promotor fiscalis Curiae S. Congregationi Concilii exposuit: "ut in diebus festivis Missa Conventualis a Canonicis celebrari debeat cum praesentia duorum Beneficiariorum, sed tamen ut ea applicetur pro Fundatoribus et Benefactoribus; diebus autem ferialibus, Missa Conventualis celebrari debeat ab uno ex Beneficiariis sine ulla adsistentia; eamque neque pro Fundatoribus applicari: ideoque postulavit resolutionem sequentis dubii: 'Utrum Canonici ecclesiae cathedralis

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et parochialis (Dioecesis N.) sub poena suspensionis a divinis ipso facto incurrenda debeant applicare Missam conventualem pro Benefactoribus diebus festivis, et Cappellani diebus ferialibus, ut fuit ab hac S. Congregatione resolutum in Fulginalensi 17 Decembris 1718, et illas adnotare in libro, retinendo pro adimplemendo dictarum Missarum in casu?'" Cui S. Congregatio responsum affirmativum dedit, quod Cardinalis Praefectus S. C. C., Secretario id temporis Lambertini, per has litteras communicavit: "Relatis in S. Congregatione Concilii adiunctis precibus Promotoris fiscalis istius Curiae episcopalis, Emi Patres, haerentes Resolutionibus alias editis de re, et signanter in Fulginalen, 17 Decembris 1718, cuius exemplar introducitur, censuerunt Amplitudini tuae committere, prout per praesentes committimus, ut tam Missam Conventualem, quam parochialem, celebrari et applicari mandet, cum facultate imponendi contravenientibus poenam suspensionis." Hoc Decretum die 24 Aprilis 1823 per Episcopum fuit iudicialiter notificatum et intimatum Capitulo et Beneficiariis pro eius omnimoda observatione, sub poena suspensionis ipso facto incurrenda. Verum, tam Canonici, quam Beneficiati, animo aegro hanc Resolutionem exceperunt: immo, Beneficiati protestatum dicuntur habuisse.

[*Latin ed. p. 533*]

THE CONVENTUAL MASS. 533 The curia [ecclesiastical court] and the Sacred Congregation of the Council were appealed to. However, it is certain and has been thoroughly investigated that in the year 1730, the aforementioned Bishop was compelled to issue an edict, "that all Dignitaries and Canons should apply" the conventual Mass for the Benefactors and Founders, and the parochial Mass for the people, on all days; and that the Beneficiaries should apply the same Mass on each day of the week, as above, for the Benefactors and Founders, under pain of incurring suspension by such action." Then, the Beneficiaries, and so that the celebrant might not lack alms, they followed up with a certain temporary decree to receive an alms of ten pennies for each Mass from the common fund. However, since the same parties repeatedly raised complaints about this matter, they finally, in the year 1868, presented a petition to the Sacred Congregation of the Council, so that the controversy might be resolved according to law. Therefore, with the customary formalities observed, the matter to be decided was presented under the formula of a doubt, which is given at the end. Disputation. THE RIGHTS CLAIMED BY THE BENEFICIARIES. Among the many things claimed by both the Beneficiaries and the Canons, we present the following as the most important. The Beneficiaries argued against the Canons that the obligation of the conventual Mass pertains to the common law concerning the Canons, citing from chapter [omitted], concerning the celebration of Mass, in which Honorius III wrote to all the prelates of the churches: "We command that none of you should allow any torpor or negligence to prevent you from celebrating the solemnities

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of Masses, both for the anniversaries of the dead and for feasts or weekdays, according to the appropriateness of the time." And they cited several other authorities that speak of the general obligation of celebrating the conventual Mass, by which collegiate and cathedral churches are bound. With these things stated, they argued that the Canons could not transfer the obligation of the conventual Mass to the Beneficiaries except from a particular law of the foundation or from some legitimate agreement. They stated, however, that in the present matter, both of these were lacking; and that it was in vain for the Canons to appeal to the recently issued Letters, in the form of a Brief, ordering that all aforementioned chaplains should recite one Mass and prayers on each weekday and feast day within the week.

[*Latin ed. p. 534*]

534. CONVENTUAL MASS. They maintained that the following should be observed: firstly, that a single, unusual formula of words should be sung; secondly, that a prescribed mass, for each day of the week, both weekdays and feast days, should be celebrated, although on feast days themselves, it was never the case that the Canon regulars sang; thirdly, that only four should be selected from among those who were obligated to chant the conventual Mass, while it was asserted that it was sufficient to indicate that the burden of the conventual Mass should be imposed upon the entire body of Beneficiaries, and that this did not pertain to a conventual Mass, but rather to any Mass that the Chaplains of that time were obligated to chant according to a particular institution; and even more so, because according to the tenor of the Breviary, that Mass was one of the seven that were to be celebrated each day, both on feast days and weekdays, according to a particular and established institution. Furthermore, they sought to exclude the burden of the conventual Mass, firstly, because among the burdens imposed upon the Beneficiaries, it had never been recorded; secondly, because the Ordinaries, during the actual Visitation, had repeatedly testified to the proper fulfillment of the burdens, even though the celebration of the conventual Mass was absent from the books; thirdly, because such a burden was imposed upon the Beneficiaries in the year 1723 by the Bishop, not without their protests. They sought to demonstrate these points with appropriate documents. Moreover, they argued that the Beneficiaries were not obligated to bear such a burden by virtue of any contract or legitimate convention, especially because they had never received any compensation for it; while all the revenues that the Beneficiaries received had a certain reason and were intended for the satisfaction of specific burdens. In fact, it was so true that, after the decree of the year 1723, they never applied the Mass for the Beneficiaries in general, but rather for Beneficiaries in particular. Furthermore, they stated, it was futile for the Canons to appeal to custom; for that custom, if it existed, should be abolished, since it was a violation of rights and devoid of any reason; and even more so, because it was a custom

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that had to be introduced, to the complaint of all the Chaplains.

RIGHTS OF THE CANONS. The Canons, through their Defender, pointed out that it was false, as the Beneficiaries asserted as a general principle, that the burden of the conventual Mass rested solely upon the Canons. For, since this Mass is a principal part of the Divine Office, *Can. De his, dist. 12, Glossa in dem. 1 de Celeb. Missar.*, it is incumbent upon all Dignities, Canons, Mansionaries, and other Clerics of collegiate churches.

[*Latin ed. p. 535*]

CONVENTUAL MASS. 535. Those who hold choral benefices, as tradition dictates, according to Pope Benedict XIV in his celebrated Constitution *Cum semper oblatas*, and this is held by the Sacred Congregation of Clergy throughout, and specifically in Macerata. The conventual Mass of March 31, 1861, through summary proceedings, in which both the beneficiaries and the canons were compelled to celebrate and apply the conventual Mass in turn, for the reason that the beneficiaries, no less than the canons, were bound by the obligations of the law. But in the present case, the beneficiaries were not only bound by the common sanction of the law, but also by a special law of the foundation, by virtue of a contract and perpetual observance. And it was clearly established from the Apostolic Letters of the foundation that a contract had existed between the Bishop, the canons, and the chaplains, confirmed by Apostolic authority, in which it was stipulated that, except on Sundays, the beneficiaries themselves were to celebrate the conventual Mass, and that, in fact, it had been perpetually celebrated by them. And those words, "that all the chaplains... should sing one," could not be understood in any other way than of the conventual Mass, since the singing of that Mass contributed greatly to preserving and increasing the divine worship, for which the union of the chaplains had been established; and that Mass could not be confused with particular obligations to be fulfilled, since the beneficiaries could not fulfill their anniversary celebrations daily, nor was there any reason why that Mass should be distinguished from the others except by the proportion of the offerings made by them. That four chaplains were appointed from among those who were to sing it was nothing, since we cannot give an account of all that has been handed down to us by our predecessors; and the same difficulty would remain even if there were no conventual Mass. Furthermore, they argued that this obligation was wonderfully confirmed by the perpetual custom, which is the best interpreter of the laws. They stated that, with the documents presented, it was clear that, not only since the publication of the *Breviary*, but from the most remote times, this obligation had weighed upon the chaplains. And many documents were presented by the canons...

[*Latin ed. p. 536*]

536. MISSÆ CONVENTUALIS. Quibus adversus Beneficiatus con-

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stantem consuetudinem de qua agimus ostendebant. Falsum autem esse, eiusmodi onus Beneficialis fuisse impositum anno 1723, cum tum ageretur non de Missae conventualis celebratione, sed de eius applicatione pro Benefactoribus in genere. Hisce aliisque fuse deductis propositum est resolvendum Dubium: "An et a quibus celebranda et applicanda sit Missa conventualis in casu." RESOLUTIO. Sacra Congregatio Concilii, causa cognita in comitiis habitis die 17 Aprilis 1869, respondere censuit: Affirmative per Beneficiale*. Ex QUIBUS COLLIGES: I. Missam conventualem, quae originem ducit a vetustissima Ecclesiae disciplina, qua conventus fidelium habebantur ad publicas Missas, celebrandam esse in ecclesiis cathedralibus et collegiatis. II. Eiusmodi officium ex se incumbere in solidum in omnes qui ad choralia officia tenentur, quae ad Missam conventualem diriguntur tamquam ad fastigium eorumdem divinorum officiorum. III. Distributionem tamen huius officii pendere a legibus fundationum, a conventionibus legitime initis, praesertim vero a consuetudine, quae hac in re multum operatur. IV. In praesenti themate, omnia aut ferme omnia Beneficiariorum petitioni obstitisse (1). (1) Confer Causam huic ex parte affinem quam deduxi in Vol. III. pag. 363, nec non causam expositam in Vol. II. pag. 194.

[*Latin ed. p. 537*]

537 CONCERNING THE RETENTION OF A PORTION OF THE STIPEND FOR OFFERED MASSES FOR A PIOUS CAUSE. January 19, 1869. With humble prayers, Most Blessed Father. "Francis, Abbot and General Procurator of the Order of Cistercians of the Reform, commonly known as Trappists, prostrates himself humbly before Your Holiness and begs for a solution to the following doubt." The question is frequently asked by the Abbot: "Is it permissible for a priest who has accepted a certain number of Masses to be celebrated, along with an alms of twenty obols for each Mass, and who is unable to celebrate all of them, to safely and with a clear conscience, return some of the accepted Masses to other priests to be celebrated by them, paying them only fifteen obols for each Mass, and to give the other five obols for the good and benefit of the church, of which he is the rector?" Some, especially in France, maintain that this is permissible, while others argue the contrary opinion. Considering the importance of the question, it seemed opportune to the Abbot to submit it to the Apostolic Authority for resolution."

RESPONSE. January 19, 1869. The Most Eminent Congregation of Cardinals Interpreters of the Council of Trent, adhering to resolutions previously issued in similar cases, decided to respond to the aforementioned doubt with a negative answer, according to § V and XXII of the seventh decree, confirmed and amplified by the Most Holy Memory of Urban VIII, commonly known as concerning the celebration of Masses; namely, § V: And, wishing to remove all detestable gain from the Church, it prohibits the

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priest who accepts a Mass to be celebrated along with a certain alms, from assigning that same Mass to another priest, retaining a portion of that same alms for himself. § XXII, seventh: It is not to be permitted that churches and pious institutions, or their administrators, retain from the alms for the celebration of Masses any whatsoever minimum portion, on account of the expenses they incur for the celebration of Masses, unless the church and the pious institutions have no other revenues that they can lawfully allocate to cover those same expenses.

[*Latin ed. p. 538*]

538 CONCERNING THE RETENTION OF A PORTION OF THE MANUAL OFFERING, ETC. It is to be understood that, and then as to what portion they will retain, they must in no way exceed the value of the expenses necessarily incurred for the very Sacrifice of the Mass itself; and nevertheless, even in that case, it must be ensured that, from the funds remaining after the aforementioned expenses are deducted, as many Masses as have been prescribed by those offering the alms are celebrated. F. CARD. CATERINI, Prefect, Archbishop of Sardinia. Secret. From which the following may be gathered: I. Although the motivating cause of the Decree of Urban is the removal of harmful profit, nevertheless, after the harmful profit has been removed, it is permissible for the manual offering for Masses to, at its own discretion, subtract a portion and convert it to another pious cause. II. However, with the precision made by the special Decree of Urban, the matter is prohibited by the general ecclesiastical law, which states that no one, by his own authority, can convert any goods, whatever they may be, which are given by the faithful for a specific pious purpose, to another pious purpose, even if it is more useful (1). (1) The Decrees cited above do not contain a prohibition of something that is not prohibited, but rather they confirm a matter that is already prohibited by general ecclesiastical law, and by a new, specific prohibition. Indeed, the general traditional law is that things given to the Church by the faithful become ecclesiastical things by the very act of giving, and come under the jurisdiction of the competent authority; thus, those who are not granted the power by the giver cannot dispose of these things at their own discretion. Furthermore, another general traditional law is that things offered by the faithful for a specific pious purpose cannot be converted, by private authority, to another pious purpose, even if it is better and more useful. The transgression of these general laws concerning alms for Masses is not immediately apparent, since we are dealing with small matters; but when it extends itself widely, it becomes conspicuous, and therefore it is necessary that abuses that are increasing be restrained by special Decrees. When, during the time of Urban VIII, abuses were increasing in retaining a portion of the alms for the purpose of obtaining personal profit, this abuse was restrained by a special Decree, which Benedict XIV confirmed with a new sanction,

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concerning which we have spoken in Volume III, page 555, according to the teaching of St. Alphonsus de Liguori.

[*Latin ed. p. 539*]

FROM THE SACRED CONGREGATION, CONCERNING THE ORDINARY RITES, DECREE CONCERNING THE CONFIRMATION OF THE CULT RENDERED FROM TIME IMMEMORIAL TO THE HANDMAIDEN OF GOD, BLESSED BEATRICE OF ORNACIEUX, A MONIAL OF THE CARTHUSIAN ORDER, NOW DECLARED BLESSED.

"Whereas, the Reverend Father Joseph Marra Rivéra, Priest, Professed and General Postulator for the causes of Beatification and Canonization of the Servants of God of the Carthusian Order, has diligently demonstrated, through irrefutable documents, that the Handmaid of God, Blessed Beatrice of Ornacieux, a Monial of the same Order, in the town of Parma, in the Diocese of Gratianopolitan, has received, from time immemorial, namely, long before the period required by the Decrees of Pope Urban VIII, a public and ecclesiastical cult, and that this cult has never been interrupted, but has persevered until this present time, and has urged that this same cult be confirmed by this Apostolic See; and whereas, the Reverend and Most Illustrious Cardinal John Baptist Pitra, Promoter of this Cause, at the request of the aforementioned Postulator, proposed the following question to be discussed in the Ordinary Congregations of Sacred Rites held today at the Vatican, namely: 'Does it appear that public and ecclesiastical cult has been rendered from time immemorial to the aforementioned Handmaid of God, or does this pertain to a case excepted from the Decrees of Pope Urban VIII?' And whereas, the Reverend Fathers, Prefects of the Sacred Rites, after mature deliberation, and after hearing the Reverend Father D. Peter Minetti, Promoter of the Holy Office, both orally and in writing, have judged it fitting to respond: Affirmative, or (Does this pertain to a case excepted from the Decrees of Pope Urban VIII?)"

[*Latin ed. p. 540*]

540 DECREE. "Concerning all the matters above, a faithful report was subsequently made to the Most Holy Pope Pius X by the undersigned Secretary. His Holiness approved the decree of the Sacred Congregation and confirmed the public and ecclesiastical cult rendered from time immemorial to the Blessed Beatrice of Ornacieux, a Carthusian nun. On April 15th of the same year." C. Epis. Portuen. et S. Rufinae, Cardinal PATRIZI, S. R. C., Prefect. D. Bartolini, S. R. C., Secretary. INFORMATION. After numerous documents were diligently collected to demonstrate the public and ecclesiastical cult rendered from time immemorial to the handmaid of God, Beatrice of Ornacieux, an information was drawn up in Rome, and it was presented to the Sacred Congregation, along with the observations of the Reverend Father, the Promoter of the Faith, and with the responses of the

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Advocate, intended to refute those observations. We present the most important part of the information, omitting the discussion, since the whole matter concerns the interpretation of particular facts, with the Promoter arguing that the alleged facts contain nothing that would demonstrate that Beatrice had been the object of a public and ecclesiastical cult; whereas, on the contrary, the Advocate demonstrated that the facts and documents presented with it bear clear signs of a public and ecclesiastical cult. Regarding the information itself, the Advocate explained as follows: "Beatrice of Ornacieux, born into a most illustrious family, disgusted by the vanities of the world in the 13th century, was received among the Carthusian nuns in the monastery of Parmenia, in the Diocese of Gratianopolitan, which at that time excelled in regular observance and in the piety of the Sisters. There, she had as her teacher in Christian asceticism, Mother Margaret of Duino (who was also called by the name of Beatrice), and she progressed so much in the pursuit of perfection that she was inflamed with a wondrous and incredible love for Christ, enduring patiently. In order to reflect in herself, in some way, the image of Christ, and to become a sharer in His wounds, she pierced her hand with an acute nail, and so that the scars of the wounds would not heal, she renewed them with an iron nail every seventh day, on Saturday."

[*Latin ed. p. 541*]

INFORMATION. 541. "Since, on account of their outstanding virtues, they were highly esteemed by the sisters, and because a new house was to be established in the district of Eymen, in the Diocese of Valentinae, Beatrix, together with her companions Ludovica Alleman and Margaret of Sassenage, was sent there, so that this new group of nuns might serve as a nucleus and model. The outcome did not disappoint; for these three sisters spread the sweet fragrance of Christ in the new monastery, and after their death, they achieved a celebrated reputation for holiness among the people, especially Beatrix, who, through her exceptional virtues and even miracles, had illuminated her life, and happily passed away on February 13th, in the year 1305, as testified by Usuard, B. Peter Canisius, De Saussay, Arthur of Moustier, and the Bollandists. After their death, it became apparent that the new house, due to its proximity to secular people, seemed less suitable for religious life; therefore, they returned to Parmenia. However, not long after, religious women, burning with a desire to possess the relics of these three sisters, whose bodies rested in the cemetery of Eymen, requested the Vicar to facilitate this. He agreed, and, not without great difficulty, he managed to obtain permission to bring these sacred remains to them. The return journey was hindered by the waters of a river and a torrent, which had overflowed due to excessive rains. However, when the animal carrying the relics of the nuns arrived, the waters subsided and allowed passage. The sisters received the precious relics with joy and placed them in a stone

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tomb near the pillar of the church. From that time on, Beatrix was considered a saint and was venerated as such. The oldest biographer, who wrote the history of her life in the vernacular language, calls her "Saint," and her account narrates this. Furthermore, this significant document, whose authenticity has been duly recognized by expert scholars, demonstrates the veneration shown to the handmaid of God in the 14th century. The authority of Hermann Greven is also cited, who included the name of Beatrix in the Supplement to Usuard's Martyrology: "Beatrix, of blessed memory, a virgin of the Carlhuesian Order, who was so ardently devoted to the wounds of Christ, that if she did not contemplate the wounds, she could desire nothing but to see them." The veneration continued into the 15th and the beginning of the 16th centuries, before the prescribed century for canonization was completed, as decreed by Urban VIII."

[*Latin ed. p. 542*]

542 INFORMATION. Documents demonstrate that the Iconography, which the distinguished Anthony Bianchini expended on this occasion, shows; also, the testimony of Peter Dorland and the edition of the Usuardian Martyrology, which was completed in Cologne in the year 1521. "Among those who, during the Urbanian century, showed us the cult of Beatrice, we will give the foremost place to Blessed Peter Canisius, who, as noted by his distinguished biographer, Father Boero, in the year 1561, corrected and greatly expanded the Martyrology of Germany, which he translated and published into the German language. He brought this to the public through the printing press in the following year, and included mention and praise of the Servant of God there, using those very words which I recently recounted. Furthermore, monuments of outstanding artistic merit, in painting, engraving, and architecture, support the testimony of Canisius. In the old Brugian monastery of the Carthusian nuns, there remains a painted image of Blessed Beatrice, along with an icon of Saint Bruno and others whom the faithful venerated as saints. Experts have shown that this panel was painted before the end of the sixteenth century. Also, in the Florentine Grande Chartreuse, another image of the Servant of God is seen, surrounded by rays, with the inscription below. Blessed Beatrice, a Carthusian nun of Carlsruhe, who was depicted by Rutilius Manetlp around the year 1600. "Still extant in the vault of the church of the Sisters of the Congregation of Saint Vincent de Paul in Bruges (which church had previously been the monastery of the Carthusian virgins), I say, is inscribed the name of the Servant of God in this manner: Blessed Beatrice, followed by two others: Saint Hugo, Saint Bruno. Furthermore, it is evident from the acts of the consecration of the temple that this vault was decorated before the year 1612. "At about the same time, it is worth mentioning the engraved image of the Servant of God by Mallery, which is preserved in the Imperial Library of Paris; also,

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an image painted in the style of the Flemish school, recognized by an expert in Paris, is found in a triptych. All of these testimonies, as to their age, are confirmed by the distinguished George Garnefelt, who published a catalog of the Saints of the Carthusian Order in the year 1618, who includes Beatrice among them, and who, because of the expertise and refined judgment with which he completed his work, deserved the honor of mention from Benedict XIV." Thus, the distinguished Orator recounted these matters, which extend to the time of the solemn Decrees.

[*Latin ed. p. 543*]

INFORMATION. 543 Urban VIII, subsequently, turned to later documents, and finally to the testimonies of witnesses, concerning which he wrote as follows: "With the accumulation of evidence, the testimonies of witnesses are added, who have been examined by the authority of the Illustrious and Reverend Bishop of Gratianopolitana. These are remarkable and worthy of being heard, which those religious and devout faithful have testified. They recount pious pilgrimages to the place of the burial of the Handmaid of God, the frequent multitude of visitors and those who pray, wreaths and gifts offered, tablets and inscriptions affixed, the abundance of which could have loaded a cart, lamps and candles lit, the name of the Blessed and Holy one being everywhere given to Beatrice, and finally, the fame of miracles." What is truly wondrous to say is that, even at that time when the place was occupied by schismatics, the veneration for the Handmaid of God constantly endured.

DECREE CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD ANNA MARIA TAIGI, A TERTiary OF THE MOST HOLY ORDER OF THE MOST HOLY TRINITY FOR THE REDEMPTION OF CAPTIVES, "At the request of the Reverend Father Fr. Andrea a Sancta Agnete, General Vicar of the Order of the Most Holy Trinity for the Redemption of Captives, and Postulator of the Cause for the Beatification and Canonization of the aforementioned Venerable Servant of God Anna Maria Taigi, His Eminence and Reverend Lord Cardinal Carolus Augustus De Reisaeh, Promoter of this Cause, proposed the following question in the meetings of the Congregation of Sacred Rites today, held in Vatican: "Whether the judgment rendered by the delegated judge by His Eminence and Reverend Cardinal, Vicar of the City, concerning the cult never exhibited of the aforementioned Servant of God, or concerning obedience to the decrees of the late Pope Urban VIII, should be confirmed in this case and for effect."

[*Latin ed. p. 544*]

544 DECREE. Is the matter being considered? Furthermore, the Fathers of Naples and Rome, entrusted with safeguarding the sacred rites, having carefully examined everything, and having heard the voice and the written

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statement of the Reverend Father D. Minetti, Promoter of the Holy Faith, decided to respond: "Affirmatively, or to confirm the opinion," on March 20, 1869. Subsequently, the aforementioned matter concerning the premises was reported faithfully to the Most Holy Lord, our Pope Pius IX, by the undersigned Secretary. His Holiness deigned to declare that the Decree of the Sacred Congregation is to be considered valid and confirmed in all respects, on April 15 of the same year. C. Epis. of Portuen and S. Rufinae, Cardinal Patrizi, S.R.C., Prefect. D. Bartolini, S.R.C., Secretary. Of Naples, or Rome, concerning the Beatification and Canonization of the Venerable Servant of God, Father John Baptist of Burgundy, a Priest of the Order of Minor Friars of the Strict Observance of Saint Francis, of the Sacred Convent of Saint Bonaventure in the City. DECREE. "On the seventeenth day before the Kalends of August, in the year 1863, when the Most Holy Lord, our Pope Pius IX, benignly decreed that the matter concerning the Doubt presented by the Congregation for the Introduction of the Cause of the Servant of God, John Baptist of Burgundy, a Priest of the Order of Minor Friars of the Strict Observance of Saint Francis, of the Sacred Convent of Saint Bonaventure in the City, should be considered in an Ordinary Congregation of Sacred Rites, without the intervention and vote of the Consultors, although the writings of the same Servant of God had not been sought out and examined; We and the Most Reverend Cardinal Alexander Bernabò, in place and instead of the undersigned Cardinal Prefect of the Congregation of Sacred Rites, and presiding over the aforementioned Cause, at the request of the Reverend..."

[*Latin ed. p. 545*]

DECREE. 545. The Reverend Father Joseph, a priest from Rome, belonging to the aforementioned Order, and promoter of this cause, having considered the petitions of several men of distinction, especially those holding ecclesiastical offices, who were gathered in the Ordinary Assemblies of the Sacred Rites at the Vatican today, proposed the following question for discussion: "Should a Commission for the introduction of this cause be appointed, and if so, for what purpose?" And the Sacred Congregation itself, after mature deliberation on all matters, and after hearing the opinion of the Reverend Father Peter Minetti, Promoter of the Holy Office, decided to respond: "Affirmatively, and to the Secretary, according to the will of the Most Holy." On March 20, 1809.

Regarding the foregoing, a faithful report was made by the undersigned Secretary to His Most Holy Lordship, POPE PIUS IX. His Holiness deigned to confirm the decision of the Sacred Congregation regarding the special grace, and with his own hand signed the Commission for the introduction of this cause in the Congregation of Sacred Rites. On April 29th of the same year.

C. Epis. Portuensis et S. Rufinae, Cardinal PATRIZI. R. C. Prefect. D.

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Bartolini, S. R. C. Secretary.

FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS, THE HOLY OFFICE, AND THE DELEGATES FOR MISSIONS.

March 12, 1869.

Summary of the case. A pious testatrix, in the year 1754, instituted her nephew, B., as a particular heir, with the obligation of celebrating four Masses each week perpetually; and under penalty of nullity, she forbade the same heir and his successors from alienating any part of the inheritance. The inheritance consisted of certain public bonds, which at that time were called "Acta," volume IV, section XLVI, page 35.

[*Latin ed. p. 546*]

546. The *fideicommissum* lands of the mountains, of which we spoke in Volume IV, page 374, were established so that all and each of these lands would remain perpetually subject to the obligation of four Masses celebrated each week, with a prohibition against selling them, for the perpetual security of the celebration of those very Masses. However, Peter B. in the year 1790, obtained Apostolic permission and exchanged these lands, which were valued at 2,736 scudi, with two olive groves belonging to a certain Lawrence. In the year 1799, without having obtained any permission, he returned the same olive groves to Lawrence, who did not pay the price of the olive groves, but instead, in its place, assumed a certain annual payment of the census that Peter had previously contracted in order to redeem himself from the Napoleonic military service. Furthermore, Lawrence had obligated himself to Peter and his successors to pay 80 scudi annually, until the land was given to those who would provide this income. However, the obligation of the Masses burdened Peter, for the security of which a mortgage was inscribed upon the aforementioned two olive groves. The Masses were diligently celebrated until the year 1821; afterwards, they were widely neglected. Indeed, Peter, for the first time in the year 1825, obtained from the Fabric of St. Peter an absolution of 624 Masses; in the following year, Mark, Peter's successor, obtained a reduction of the Masses for three years; finally, in the year 1832, he again obtained, through the Sacred Penitentiary, an absolution of past omissions, under the condition of celebrating ten Masses at once, and simultaneously a reduction of the Masses to twenty annually, during the poverty of the orator and his family. However, neither such indulgence from the Holy See was sufficient to ensure that the heirs would fulfill their own obligation. Finally, in the year 1868, three existing heirs entered into an agreement with Lawrence, by which the two aforementioned olive groves would be freed from all mortgage obligations, and Lawrence would be released from any obligation, upon the heirs paying him a single sum of 1,500 scudi. For they considered this inheritance to be nothing other than a *fideicommissum*, and therefore, after the French laws, which dissolved fideicommissary ties

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even in the Pontifical States, they considered it to be within their hereditary power to alienate the property, while preserving the legacy of the Masses. Therefore, it was agreed between them that Lawrence would receive this sum of money, and the heirs would establish a pious legacy of 1,500 scudi.

[*Latin ed. p. 547*]

AND REGARDING THE LEGATES OF THE MISSES. 547. Considering the bond pertaining to the satisfaction of Masses, which was requested along with a new and perpetual reduction; since the alms for Masses in the diocese had been increased from 10 to 15 oboli. The Bishop, when asked, was of the opinion that these agreements should be confirmed, considering the grave lack with which the aforementioned heirs were struggling; however, that they should give 150 scudi to the collegiate church of N., with this donation freeing the heirs from the obligation of the pious legacy, and the church of N., upon receiving this sum as an investment, would be obligated to celebrate twenty-eight Masses each year in satisfaction of the pious intention. Before such requests were presented to the Sacred Congregation, the Bishop and the Royal Procurator, having considered the matters that were somewhat complex, noted certain things on both sides, which are presented to the Sacred Congregation and the Royal Procurator under the name of "Consultation," and which are as follows. The discussion is not technical. THOSE THINGS WHICH WERE ADVOCATED FOR BY THE PRAYERS OF THE HEIRS. It seemed certain, it was observed, that the testamentary disposition under consideration contained a true fideicommissum, which consists in the fact that someone is legally instituted as heir by a will, and is entrusted with the obligation to restore the inheritance to another, as Justinian the Emperor stated in the Institutes, I. 2, title 2, § 2. In the present case, both aspects are present: the institution of an heir in the Locis Montium, and the prohibition of alienating even the smallest part; this prohibition implicitly contains and carries with it the obligation to restore the inheritance to successors, as Peregrio states in "De Fideicommisso," art. 18, § 2, and as the Sacred Rota decided in case 118, n. 25, before Ansaldo, and in Rome, in the Locorum Montium, on January 8, 1834, before De Avella, n. 3. Even more so, because the testatrix, in the codicil, substitutes relatives and kin as heirs, which introduces that type of fideicommissum that the Authors call "gradual," as Voet states in "Ad Pandectas," I. 36, title 1, n. 3. Therefore, considering the nature of the fideicommissum, it follows that this was understood by the French laws, since in law 6 Termidor, year V, article 2, it is stated: "From the promulgation of the present law, any fideicommissary bond is declared dissolved, under whatever name."

[*Latin ed. p. 548*]

118. The nature of a fideicommissum is thus described. Goods subject to a fideicommissum are understood to be freely in the possession of the

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actual possessor, who can dispose of them as if they were any other goods. Furthermore, in the Napoleonic Code, article 896, any substitution was prohibited, by which someone would be obligated to conserve and restore an inheritance, or a legacy, or a donation to another. It is indeed noted that such laws might have exercised their force in the Pontifical States, where French domination was both unlawful and sacrilegious; however, Pope Pius VII, by his own initiative on July 6, 1816, confirmed the abolition of the fideicommissum in those goods which had already passed into the possession of others. Therefore, it appears that two properties, "Loca Montium," which, having been granted the faculty, had been transferred to Lawrence and had reverted to the domain of Lawrence since the year 1799, had thereby had the fideicommissum dissolved. Nor does it seem to obstruct the prohibition made with the intention of a perpetual endowment for Masses, as if a substitution had been made for a pious cause, that is, for a true secular chaplaincy. For it was observed that the pious cause did not participate in either the property or the usufruct of "Loca Montium," the alienation of which was prohibited only so that it would remain perpetually subject to the endowment for Masses... for the perpetual security of the celebration of Masses. Since "Loca Montium" was not designated as a dowry for a pious cause, nor was any chaplain designated to possess the dowry for the satisfaction of the obligations, it appears that the intention was not a true secular chaplaincy, but rather a legacy for Masses, as stated by Pasqualig in "De leg. pro celebr. Miss." question 1640, number 9, and therefore, the prohibition against alienation carries with it nothing more than a mortgage in security of the obligation to be fulfilled by any possessor of the funds, as these things teach Tondut in "Quaest. benef." volume 2, page 3, question 162, number 5, and Pasqualig in "De Sacrifie," volume 2, question 1623. If the fideicommissum were still in existence, it was observed that those who were supplicating, both in old age and in grave poverty, were struggling to support their families, and therefore seemed worthy of compassion, so that their prayers might be heard, with a dispensation granted for contracts already entered into on fideicommissum property; indeed, in such cases, it is permitted by law to derogate from these bonds, either to provide for sustenance, or to remit a debt contracted by the possessor out of necessity, as Cardinal De Luca states in "De Fideicommissis," discourse 273, number 12.

[*Latin ed. p. 549*]

AND REGARDING LEGATES FOR MISSES. 549 Indeed, the very pitiable circumstances that necessitate these petitions are considered in relation to the reduction of a pious legacy, either because of the presumed will of the testatrix, who certainly would have favored the descendants of the chosen family if she had foreseen their distress, as is often the case in similar matters before the Sacred Congregation [for the Propagation of

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the Faith], as can be seen in Albania, March 24, 1792; in Murino, March 24, 1821; in Ravenna, August 2, 1823, and elsewhere. The same indulgence seems to be deserved by the heirs for the Misses neglected up to now, in which, when granting it, two things are usually considered: that the pious legacy was not neglected through fault or fraud, and that it cannot be fulfilled due to poverty.

THOSE THINGS WHICH SEEMED TO OBSTRUCT THE PETITIONS. It must be noted, however, that those things which appear to obstruct the petitions may not, in fact, do so. Fideicommissary substitutions cannot be impugned solely on the basis of a prohibition against alienation, as Cardinal De Luca observes in the aforementioned work, loc. cit., disc. 1, n. 8: "Not merely the prohibition is considered, but the reason for the prohibition." In the present matter, the reason for the prohibition was the perpetual security of the celebration of the Misses, so that all and each of the properties of Montium would always be subject to the burden and obligation of the Misses. Therefore, it seems that the testatrix intended to directly assign the property to the pious cause, and that she established that cause, that is, the chapel, as the heir, both in terms of ownership and usufruct, for her descendants.

This seems to be confirmed by the fact that the testatrix, although she granted the heir the freedom to have the Misses celebrated by anyone and in any altar, nevertheless wished that, until her grandson had sons who were priests, certain priest Philip should celebrate those Misses: a disposition that seems to carry with it a certain right of patronage, by which the testatrix established a lay chapel, of whose usufruct the relatives and kin should enjoy: which is the same as saying that the heirs were simultaneously chaplains or possessors of the chapel, whose Misses they celebrated through others.

With these things established, the substitution of relatives would only take place in the usufruct, which, if French law of July 7, of the year 7, prohibits even the progressive usufruct in several generations.

[*Latin ed. p. 550*]

550. Fideicommissa, tamen, adhibeantur ad usumfructum causalem, ut saepe declaravit Sacra Rota; contra, ususfructus formalis, secundum art. 899 Codicis Napoleonici, ita definitur: «non consideratur ut substitutio, et valida erit dispositio, qua uni datus est ususfructus, aliis vero nuda proprietas.» Et in art. 112 Codicis Pii VII, post tractatum de abolitis fideicommissis, legitur: «reservationes iurium patronatus activi et passivi non comprehenduntur in praecedentibus dispositionibus quae respiciunt substitutiones et fideicommissa: quare sub profanis illis legibus dispositio de qua agimus nec comprehendi videbatur, nec comprehendi potuit. Manente itaque integro utroque vinculo, tum cappellaniae tum haeredum Cappellariorum, implorata derogatio cederet tum cappellaniae tum

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futurorum successorum, quas gratias in iurium aliorum detrimentum concedere Princeps non solet, cap. Si quando de Rescrip. 17, Cod. de precib. Imper. offer. Facta praeterea quoque hypothesi, contineri sub dispositione de qua agimus simplex fideicommissum cum onere ligati Missarum, ita ut vinculum fideicommissarium solutum manserit ob gallicas leges, cum tamen testatrix voluerit, ut singula bona essent subiecta oneri Missarum, consequi observabatur, dicta oliveta ab hoc onere solvi non posse, transire quidem posse ad quoscumque extraneos, manente tamen eo onere, Fargna de lurepatr. par. 2 can. 27, eas. 20 n. 8, aliique. Quare nec Lawrence habet ius ad auferendum vinculum hypothecarium ab olivetis, neque expedire pio legato, ut idem vinculum transferatur in tenuem haereditatis partem. Nec insuper aequam videri novam Missarum imploratam reductionem, tum quia ultima reductio concessa esset cum clausula: durante oratoris eiusque familiae indigentia; tum quia summa scutat. 150 investienda fructus sufficientes auferre posset pro integra legati satisfactione, si ex redditibus tot celebrarentur Missae quot possent, ut Sacra Congregatio respondit in Forolivien. 11 Iunii 1825 ad dubium: «An et quomodo sit concedenda reductio Missarum» in casu: »cui responsum prodiit: Affirmative ad tot Missas, quot redditus; tradito tamen fundo favore ecclesiae et Episcopus curet transcriptionem.»

[*Latin ed. p. 551*]

AND REGARDING THE LEGATES OF THE MISSES. 551 Having considered these matters, the following questions were proposed to be resolved: L. ”Does it pertain to the abolition of the substitution of those who provide for Masses? B... or rather, should it be derogated from, and the alienation of the year 1799 be remedied in this case? H. ”Is it advisable for the *oliveta* to be released from the burden of the Masses, so that 150 *scuta* may be investigated for that purpose in favor of the church (N.)? In case III. ”Whether and how the requested absolution and reduction should be granted in this case.” RESOLUTION. The Holy Congregation of Bishops and Regulars, having knowledge of the matter on March 12, 1869, decided as follows: Regarding I. Affirmative, concerning the first part; regarding the second, provision is made in the first. Regarding II. Affirmative in all respects, according to the manner prescribed in the third. Regarding III. Concerning the absolution, affirmative, according to the manner: the manner is that the care of the Bishop should be removed from the *summa* to be paid by the knight (Lawrence), with three *scuta* to be spent for the celebration of twenty Masses, only for a single occasion; concerning the reduction in the future, the intention is: that the *summa* of 150 *scuta*, as soon as possible, be given to the collegiate church, and that the Bishop, with his care, investigate it and celebrate as many Masses each year as can be celebrated from the income, according to the synodal tariff, and thus suppress all right of diminution with regard to the family

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(B.), having made an agreement with the Most Holy. FROM WHICH WE GATHER: I. That certain *fideicommissa* or hereditary substitutions exist, so mixed with a pious cause, that it cannot immediately be judged whether the property pertains to the pious cause, or rather, whether the pious cause is a perpetual pious legacy joined with a hereditary substitution. II. That, given the civil law which dissolves fideicommissary substitutions, it is very important to determine whether the property pertains to the pious cause, or otherwise. III. That, if the property is usefully related to the pious cause, civil laws cannot exercise any legal force in the dispositions made of the goods.

[*Latin ed. p. 552*]

552. FIDEICOMMISSI AND LEGACIES FOR RELIGIOUS PURPOSES. IV. Whenever property does not pertain to a religious cause, it is permissible for civil laws to dispose of such properties under fideicommissary arrangements; however, the essential substance of the pious legacy must remain intact, which no civil law can legitimately impair. V. In the present matter, a case has arisen where a chaplain's office, to be held and enjoyed by designated successors, was established, which differed very little from a real, secular fideicommiss with the obligation of celebrating prescribed Masses (I). VI. Such fideicommiss, to some extent veiled under the guise of a religious cause, are subject to civil laws concerning fideicommissary arrangements, always preserving the essential substance of the pious legacy (2). VII. Finally, it should be understood that properties which have been perpetually obligated to a religious cause by a testator, in whatever hands they may pass, remain subject to the burden of that religious cause, unless legitimately satisfied.

EPIS TOL FROM THE MOST HOLY FATHER, POPE PIUS X, TO THE VENERABLE BROTHERS, JOSEPH, PATRIARCH OF JERUSALEM, VINCENT, BISHOP OF MAGID, AND THE SECULAR CLERGY OF JERUSALEM.

Venerable Brothers and beloved sons in the apostolate, greetings and blessings.

"It has brought us great consolation to receive, as the fiftieth anniversary of our first Sacrifice approaches, the filial duties rendered to us from the Catholic world, and to perceive the clear expressions of your piety towards us. We have recognized, in observing your endeavors, the sentiments you hold towards us and this Apostolic See, and how deservedly you strive for the progress of this Church (1)."

(1) See the case cited in Vol. IV, page 329, and those added there on page 331.

(2) See the case cited in Vol. III, page 529, and following, in which are set forth the general criteria that prevail in Rome in the present age concerning

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such matters; also, see the case cited in the present volume on page 276, in which the case of preserving a pious legacy is discussed, even though it is not recognized by civil authority.

[*Latin ed. p. 553*]

TO THE HOLY FATHERS. OUR LORD, trusting that there are those who are called to devote their efforts to the cultivation and care of the Lord's vineyard. Therefore, Your congratulatory messages, and likewise your fervent prayers, which you endeavored to offer to divine mercy for Us, and for the cause of the Holy Church on this occasion, could not but be most pleasing to Us. Indeed, if you believe that it is Our duty to be concerned about the welfare of the entire Church and all its children, then it is your task, Venerable Brothers and beloved Sons, to safeguard this life of hers, and to care for it with all diligence and effort, so that, having shaken off its former squalor, it may flourish with the abundant fruits of the Catholic faith. In order that this may truly come to pass according to Our wishes, We do not neglect to implore the Most High God that He may regard this vineyard in His mercy, and that He may strengthen and fortify you, so that you may increase the glory of His name, in which all Our glory is placed. While We rejoice to testify to and confirm with you the most grateful sentiments of Our heart, and to offer a witness of the blessings of all things heavenly, and of Our paternal benevolence towards you, We impart to you, Venerable Brothers and beloved Sons, the Apostolic Blessing with all the affection of Our heart.

Given at Rome, at Saint Peter's, on the 17th of April, 1869, in the 23rd year of Our Pontificate.

PIUS IX, POPE.

[*Latin ed. p. 554*]

554 APPENDIX XIV. A QUESTION RAISED IN BELGIUM CONCERNING THE METHOD OF ESTABLISHING THE SACRED PATRIMONY REQUIRED FOR THOSE RECEIVING HOLY ORDERS, ACCORDING TO CANONICAL LAW, WHICH WAS PRESENTED TO THE HOLY CONGREGATION OF THE COUNCIL ON AUGUST 24, 1850.

Among the more serious matters raised in recent years concerning certain aspects of ecclesiastical discipline and presented to the Holy Congregation of the Council, the following is noteworthy: BRUGES. Concerning the Title of Holy Orders. In some cases, titles are unjustly withheld from those to whom they are due; in other cases, they are obtained through private means, and the title of ordination, though conferred, lacks true validity and benefit, because it is most often granted in a private manner in order to avoid a higher tax levied by the government, and thus lacks all

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protection under civil law; or, if it is conferred in a formal and authentic manner, in such cases, no cleric would ever receive the title of ordination from any benefactor, if he were once required to contribute to the expenses of the patrimony. Consequently, it often happens that clerics who, due to poor health or other reasons, can no longer support themselves through their ministry, are compelled by the ordaining Bishop to bear a very heavy burden of the episcopal table.

"In the year 1845, the Bishop of Bruges in Belgium presented a petition to His Holiness Gregory XVI, explaining that the decree of the Council of Trent, which stipulates that no cleric should be promoted to Holy Orders unless he possesses a true ecclesiastical benefice, or a patrimony or pension sufficient to support him for life, had been faithfully observed in Belgium until the French Revolution; but that it has become more difficult to maintain since then."

Therefore, given that matters stand as they do, and that churches, colleges, and simple benefices have been almost entirely extinguished, clerics who are often lacking in sufficient patrimony are frequently admitted to Holy Orders. And since, with very few exceptions (about a third), those being ordained do not possess sufficient patrimony, but rather have a patrimony belonging to the church, or have received a portion of their inheritance from their parents, although it is a part of the inheritance that would otherwise go to others, it is the considered opinion of the Apostolic See that a suitable provision should be made for their diocese, and that His Holiness should deign to grant a dispensation from the law that requires that no cleric be admitted to Holy Orders unless he possesses a benefice, pension, or patrimony.

[*Latin ed. p. 555*]

"xiv. that which suffices for their honest sustenance; but with this condition, that each one to be ordained shall pay once two hundred francs, and furthermore, that he may also deign to extend this dispensation, necessary also for the poor, to the wealthy, both for the sake of uniformity, and so that the intended purpose may be more easily achieved." With this latest method, the Bishop promised that, henceforth, from the fruits of the money, through the Bishop's investment, provision would be made for the sustenance of the clergy, as far as necessary. "Given by this Holy Congregation on August 18th of the same year, letters were sent to the Bishop, to be presented to the speaker, concerning this matter, so that he might report why it would not be more expedient for each one to be ordained to obtain from the Apostolic See a dispensation regarding the *integra* tax on ecclesiastical property, with the condition, however, that they should not leave the Seminary unless they are provided with a suitable benefice, or a sufficient title, or at least some ecclesiastical office; the aforementioned Bishop, obeying the mandates, declared that it was the practice

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of the diocese of Bruges that clerics should not leave the Seminary unless they are provided with some ecclesiastical office, or are obligated to perform the office of instructing youth; afterwards, several of them, since they receive meager income from their office, and have no property from which to be sustained, nor do they receive any pension from the government, and therefore, because of infirmity, or some other cause, are no longer able to exercise their office, then seek refuge in the Bishop's household from which they may be sustained: this applies to vicars of parishes, to those clerics who exercise the office of professor in public schools, and to clerics who are sometimes afflicted by serious illness, before they are promoted to the priesthood. Therefore, the Bishop again supplicated to the Most Holy [Pope] for a dispensation regarding ecclesiastical property, as well as for the approval of the latest proposed method." "From the report of the Apostolic Nuncio, to whom it was entrusted to inquire about the opinion of each of the Bishops of Belgium regarding this matter, it was discovered that the Bishops of Gand, Tournay, and Liège agreed with the Bishop of Bruges, for this reason, so that an end might be put to the greatest anxiety of their minds, concerning the validity of this title in their dioceses; and that they desired that, indeed, His Holiness would deign to write that he can safely proceed with the aforementioned practice, or that he would consent to what is contained in the petition of the Bishop of Bruges, and that it would be useful, indeed necessary, and would not present any danger of scandal, or admiration, in those to be ordained, or in their relatives." "However, the Bishop of Liège considered only one thing to be desirable, namely, that each cleric should be given the freedom to choose either the Tridentine, or the new method to be followed, and furthermore, that this common fund, to be established from the payments of those to be ordained, should be supported by the authority of civil power, so that its security would remain firm."

[*Latin ed. p. 556*]

556 APPENDIX XIV. "The Most Reverend Archbishop of Mechlin openly declared that nothing should be introduced in his diocese that had not already been established by diocesan law; and furthermore, he foresaw that very grave scandals, and the greatest possible offense to those being ordained and their parents, would inevitably arise if a new practice were to be introduced. The Bishop of Namur, although admitting that the sacred patrimony had been established in his diocese by a private agreement, and that it lacked all civil legal protection, nevertheless declared that he felt most strongly opposed to introducing any new regulations in this matter, first, because he said that the inconveniences that necessarily result from the current method of establishing the patrimony could easily be remedied by appealing to the Holy See to obtain a dispensation from the requirement of the patrimonial title; and he testified that he

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had never been denied such a dispensation; and secondly, because this practice would not be inconvenient, since in the diocese of Namur and in Belgium in general, only those clerics are promoted to higher orders for whom the needs and interests of the Church clearly demand it; hence, it follows that dispensations are only sought for those clerics for whom there is absolutely no doubt that, once ordained, they will find some office with a suitable pension provided by the government. Thirdly, because it seemed that the common fund established in this way would not be sufficiently secure, and that its preservation and administration would be subject to countless difficulties. And fourthly, because the division of the fruits derived from it might open the widest possible path to quarrels, murmurings, dissensions, and accusations, not excluding the Bishop himself; and therefore, he considered that the practice to be introduced was by no means necessary, but rather full of dangers, and should be entirely rejected in his diocese. After these statements, the matter remained silent for several years, until recently, the successor of the aforementioned Bishop, the present Archbishop of Bruges, in sending a report on the state of the Church, as is customary, requested the opinion of the Holy See regarding "the introduction of a new form of clerical title," which, "due to the circumstances of things and times, I have been compelled to introduce, so that clerics without a real title should not be promoted to the sacred orders, as has happened in the past." Furthermore, he stated, "I fully and completely submit all the other matters that have been instituted by my venerable predecessor, or that I have recently decreed, to the judgment of the Apostolic See." In addition, the same Archbishop submitted a petition in which he asked: "Whether, if the aforementioned form of clerical title, which is called, or can be called, a 'patrimonial' title, is approved, it is permissible for the Archiepiscopal See of Bruges to ordain all, except those who are truly called to the title of patrimony, or who are truly poor, to the 'patrimonial' title." And as for..."

[*Latin ed. p. 557*]

APPENDICES) He stated that he had adopted the form, and that he had also approved the manner of calling him in the subdiaconate ordination; he further inquired "whether this designation of the title could be included in a future Roman Pontifical, for example, in the edition which is now being prepared in Mechlin at the Hanicquian printing house." After such an exposition of matters, a certain dissertation was made, which we give here almost entirely; in it, we have especially omitted the name Van-Espen, who had been cited two or three times. We do not wish to include the names of heretics in our publications without any necessity; especially not the name of that one who, if he has said anything good and correct on a matter of canon law, has taken it from our sources; or if he has said nothing new, which Catholic canonists have not already said:

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but rather, what he adds to it is frequently found to be either suspicious or tainted with Jansenian ideas, or adulterated when dealing with documents. And so it was discussed. "It is known that the Church greatly detests the mendacity of clerics, as is evident from the well-known decree of the Council of Trent, Chapter 2, Session 5, on reform. 'Since it does not befit those who are devoted to the divine ministry to beg, or to engage in some sordid pursuit; and it has been observed that in many places, those who feign themselves to possess an ecclesiastical benefice, or who obtain it with suitable qualifications, are admitted to the sacred Orders with little discrimination, xiv. 557, the Holy Synod decrees that no secular cleric shall henceforth be promoted to the sacred Orders, unless it is first legitimately established that he peacefully possesses an ecclesiastical benefice, which suffices him honorably for his livelihood; ... Those who obtain a patrimony, or a pension, shall not be admitted to the Orders afterwards, except those whom the Bishop shall judge to be necessary, or for the convenience of their churches, and also after it has been ascertained that they truly obtain that patrimony or pension, and that it is sufficient for their sustenance, and that it shall not, thereafter, be alienated or extinguished, or remitted in any way, until they have obtained a sufficient ecclesiastical benefice, or have some other means of living; the penalties of the ancient canons on these matters are to be renewed.' This salutary decree of the Council of Trent has been observed everywhere, especially in Belgium, as is evident from the decree of the Provincial Council of Mechlin. However, as time passed, it was observed that some bishops had deviated from this norm, admitting almost anyone to the title of patrimony for the sacred ministry; therefore, Innocent X ordered letters encyclical to be sent to all bishops through the Sacred Congregation on May 13, 1679, so that the decree of the Council of Trent might be more fully observed. "Then, through these circular letters, the Most Holy [Pope] commanded that the decree of Trent be brought to the attention of all the bishops, so that..."

[*Latin ed. p. 558*]

558 APPENDIX XIV. Let all diligently safeguard this, and let them know that it cannot be ordered to the title of patrimony or pension, except when the necessity or convenience of the Church so requires; in which case, the prudent and circumspect judgment of the Bishop must prevail.

From these things, it is inferred that a benefice is a true and principal title of ordination; while patrimony or a pension are admitted through the way of dispensation, as can be seen in Suanen, July 28, 4838. §.

Now, furthermore, and from the common opinion of Doctors, Fagnanus, in his commentary on the chapter "De praebendis" of the title "Episcopus," states that the Council of Trent abolished the disposition of chapter "Tuis" in the same title, insofar as it was there granted indiscriminately to be ordained to the title of patrimony or benefice.

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Concerning the canonical constitution of patrimony, no one is ignorant that a sacred patrimony must be composed of certain, stable, and productive goods, and that it cannot be considered a legitimate title of ordination if the income is easily obtainable through ingenuity and virtue, as this Holy Congregation declared in Siguntina Sacrorum Ordinum in the year 4589, in October, regarding the following question: "If someone has only what he earns through industry or honest labor, such as if he is a musician, a grammar teacher, a painter, a writer, or another licit profession, and this is sufficient for the sustenance of life, can he be ordained?" The Sacred Congregation responded, "No," lib. 44, decree, page 53.

It is also declared that a patrimony cannot be established in movable and transportable goods, as stated in Monopoli, November 4, 4769. §.

Patrimony is also explained in Biganti, in his commentary on rule 24 of the Cancellaria, § 5, number 449 and following. Therefore, Doctors commonly teach that a patrimony must be founded on immovable things, or on those that are equivalent to immovable things, as Engel states in his collection of canon law, title 44, book 4, on age and qualifications for appointment, § 24.

However, among the legitimate titles of ordination, one sometimes finds the office of a chaplain, perpetual censuses, and even patrimonies established by private benefactors, for this reason: because, since it greatly contributes to the benefit of the Church if it abounds in ministers, clerics who provide a sufficient and legitimate title of support are to be received with all facility and indulgence, as is stated in the Institutiones of Pope Benedict XIV, with these words of Pallavicini in his history of the Council of Trent, book 47, chapter 9.

Indeed, to say something about each, the office of a chaplain, although it is referred to among movable goods, can nevertheless be sufficient for the reception of the sacred orders, provided that it equals the full tax of a sacred patrimony, and those who have the right to nominate provide their assurance with the authority of the Bishop, that the one who is nominated will remain in that office until his death, and finally, there is no one who does not provide for his sustenance.

[*Latin ed. p. 559*]

APPENDIX x xiv. He should promise to provide, if the circumstance arises, whereby he, having been thus ordained, is legitimately hindered from celebrating the Masses. Concerning a perpetual Benefice or chaplaincy, to the title of which someone intends to be promoted to the sacred Orders, it has already been debated before the Holy Congregation whether the obligations of Masses should be deducted from him, when the beneficiary is not obliged to celebrate them himself; or rather, whether, with the obligations of Masses not deducted, or whether they should be celebrated by himself, or can be celebrated by another, account should

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be taken of all the fruits for the establishment of the sum required by the synodal Constitution or the custom of the region. However, the matter was thoroughly discussed in the Congregation on August 8, 1722, with the preceding observations learnedly written in his own manner by Benedict XIV, then acting as Secretary, and finally, on July 17, 1723, it was decided: "It is to be left to the judgment and conscience of the Ordinaries." Regarding perpetual endowments, it is possible for them to constitute a patrimony, provided that they are established under the conditions prescribed by St. Pius V in his Decree; and if they are converted into other assets, or invested in productive and certain lands, it is provided by the Decrees of the Sacred Congregation, as can be seen in Monacell's formulary, legal titles, 43, volume 2, numbers 7 and 24. As for the patrimonies which are bequeathed by benefactors out of Christian charity and piety, for the benefit of those being ordained, this Holy Congregation judged "that someone can be promoted to the sacred Orders to the title of the goods which are given to him, provided that the Bishop judges that he should accept them for the necessity, or convenience of his churches, and that such donations are made truly and without any fraud, and in a valid form, of all the goods which are sufficient for maintaining him honorably during his life, and which cannot subsequently be alienated without the permission of the Bishop, until he obtains a sufficient ecclesiastical benefice, or otherwise has a means of livelihood": thus it is written in the Resolution of the year 1573, Decrees, page 454, which is consistent with another Resolution which was issued on April 15, 1598, and is found in book 9, Decrees, page 50. "Nor is it unlawful or foreign to practice, an agreement made in the patrimony regarding it, when the ordained person has a sufficient benefice, or otherwise has a means of livelihood, and in that case, no suspension is incurred," Barbosa alleges, 49, number 57, and Garzia de Benef., part 2, canon 45, number 469. "Nor is it sufficient to impose a personal obligation on the cleric to pay all that which will be sufficient for his proper maintenance," as is noted in the cited Suanen, %. And %. Indeed; for the reason that this personal obligation is not a fixed and peacefully possessed thing, and through it, the ordained person would indeed have a right to the thing, but not a right in the thing, as is rightly observed by Rigantius in that place.

[*Latin ed. p. 560*]

560 APPENDIX XIV. supra cited, no. 422, where it is stated that a resolution of the Holy See was issued on June 8, 4704. For, when an Emperor had granted a diploma or title of a benefice to a cleric from Florence, for his honest sustenance, until a sufficient benefice could be provided, and this had been called into question, whether he could be lawfully and validly ordained to the title of said benefice? the response was, negatively. Similar things are found in the aforementioned Engel, who in §. 17 states that a

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title of ordination cannot be established solely on a personal obligation, because, if the person granting the title dies, the cleric might lose the title; and this, the same author laments, has happened frequently in Germany, so that clerics, not having any other means of support, are often seen to lead a miserable and scandalous life. Engel, often praised, states in §. 23 that it is not permissible to ordain to a title of a future inheritance from Pernes, and although a son may compel his father to establish a patrimony for him, so that he may be able to receive Holy Orders, as is stated in the Holy See in Bologna, August 4827, §.Hinc, and in agreement, Barbosa de officio et potestate Episcopi, allegation 49, no. 6, and Cardinal De Luca de dotis, disputation 462, no. 40, and discussion 32, no. 8, and Sánchez de Matrimonio, book 4, disputation 26, no. 7; nevertheless, it is not permissible, as it is entirely contrary to equity and reason, that a parent should assign all of his goods to a son for the purpose of receiving orders, to the detriment of other children, who have a right to a share of the inheritance, as is shown in the aforementioned Institution 26 of Benedict XIV, no. 44. "Ibidem, the most illustrious Author clearly states that fictitious patrimonies are to be judged as such, which are those that are derived from goods belonging wholly or in large part to another, so that the ordained person cannot receive the annual fruits; or in which there is an express or tacit agreement, so that the possession of the land always belongs to the one who contributed that land solely by reason of the patrimony, or so that the ordained person receives no fruits from that land, or only a part of them, even if public records express the contrary; which is to object a most serious fraud, and to oppose the spirit of the sacred canons." Therefore, against clerics who falsely and with confidence receive Holy Orders under a false title, canonical sanctions establish very severe penalties by law. But an ordained person to a title of a patrimony, arising from a similar fictitious donation, is not secure in his conscience; indeed, he would truly be as if ordained without a title, and would incur the penalty of suspension, as established against those ordained without a title by the Constitution of Sixtus V against clerics improperly received. Thus, after others, Barbosa, allegation 49, no. 57. But since Clement VIII moderated the Sixtine Constitution, it would be necessary to investigate whether the Council of Trent, when it renewed the penalties of the ancient canons, also renewed the penalty...

[*Latin ed. p. 561*]

x xiv. For it had again decreed the suspension of those who are ordained with a fictitious title of patrimony. However, the Holy Congregation, after carefully examining the matter, decided that the penalty of suspension is incurred by the very act of the one who, through deceit, led the ordaining prelate astray; and this was declared and decreed on November 27th of the year 1610: "S. C. Concerning the aforementioned doubt proposed by the Council, with the unanimous opinion, it was decided that, in this case, the

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penalty of suspension was not correctly applied before the Council, and that it has been newly instituted by the Council of Trent; and therefore, that such a cleric, who, through deceit and with a fabricated title, deceived the ordaining prelate, is, by the very law, suspended, and is to be deprived of the exercise of the orders, as can be seen in Fagnanus, in chapter "Cum Secundo," number 63 and following, and in the aforementioned Institution of Benedict XIV, number 46, and in the cited Lünen, Sarzanen, S. Ordinationis, May 29, 4824, §. Nec. "The same is also reported by Reiffenstuel, title 9, number 491, where he states that, according to ancient laws, the penalty of suspension is not imposed on one ordained without a title, in the presence of the ordaining prelate, when the ordained is guilty of receiving the bishop and fabricating a title which he does not possess; and, besides the Resolution of the Holy Congregation of November 27, 1610, he states that the same is also evident from the Constitution of Urban VIII, which begins with the words 'Secretis,' in which the Pontiff renewed and expanded the disposition of Clement IV, which is found in chapter L, concerning the times of ordinations, and the quality of the ordaining. Acta, volume IV, page 561, number 6, with the addition of certain penalties; and he clearly states that those who are promoted contrary to the form prescribed in the same Constitution 'Secretis' incur the penalty of perpetual suspension, without any hope of obtaining dispensation from the Apostolic See. And furthermore, he states: 'Moreover, we decree that those who are promoted in this manner, and also those who, knowingly, have sought to be promoted to the orders with false or fabricated, or with titles of trust, are to be subjected to the aforementioned penalties, and also to greater penalties at Our discretion and according to the laws in force in the Roman Pontiff at the time,' as can be seen in the aforementioned Reiffenstuel, in the same place. "Furthermore, in this case, the ordaining prelate is not obligated to provide sustenance to the cleric, as is stated in Fagnanus, in chapter "Cum Secundo," number 62, concerning the provision of sustenance; Pirrbing, in the same place, number 414, and Reiffenstuel, in the aforementioned place, number 494; for the reason that, a thing which is without fault should not be called a detriment. Chapter 2, concerning Constitutions. "However, if a bishop ordains someone under a pact, or a promise, that the ordained will not trouble him concerning his sustenance, then the ordained is to be provided with sustenance for three years, while the one who received the order in this way is perpetually suspended, until he obtains dispensation from the Apostolic See. This is the established rule in chapter 'Si quis ordinavit,' number 43, concerning simony. Indeed, such individuals are considered to be guilty of simony, hence the aforementioned chapter, 'Si quis ordinavit,' is placed under the heading of simony. The reason for this is given by the

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same Reiffenstuel, number 36.

[*Latin ed. p. 562*]

562 APPENDIX XIV. in the cited passage, no. 495, because in this manner, the one who is ordained relinquishes to the ordaining prelate the right, which would otherwise belong to him, with respect to temporal sustenance, so that he may be provided for according to the ordaining prelate's will; but simony is not only committed by giving, but also by relinquishing a temporal right for a spiritual one, as is argued in chapter 7 concerning transaltation, and in chapter 5 concerning witnesses.

Indeed, a Bishop who knowingly confers a sacred Order upon someone who does not possess the proper title of support, besides the sin that both the ordaining Bishop and the one ordained without a title commit by acting against the just prohibition of the Church in a serious matter, is also obligated to provide for the one thus ordained with the necessities of sustenance, until he receives an ecclesiastical benefice. This is the common teaching, and it is clear from chapter "The Bishop" and chapter "Concerning What Must Be Provided." Therefore, the Doctors commonly teach that, through these canonical sanctions, the ancient canons have been corrected, which held that an ordination made without a title was invalid, as is stated in canon "Sanctorum," dist. 70, and again in canon "Neminem," ibid. dist. 70 (1).

Therefore, by the new law, the burden falls upon the ordaining prelate to provide sustenance to the cleric whom he has promoted to the Sacred Orders without a certain title, but the one who is ordained in good faith is not punished by the penalty of suspension, which the ancient canons imposed upon those who ordained unjustly, and only the Ordinary is punished by the imposition of the burden of supporting the one ordained. This has been rightly arranged, since no one should be burdened with another's hatred, according to the rule of law 22, section 6, and similar cases, as Garzias states in part 2 of "De Beneficiis," chapter 5, no. 20 and following; Fagnanus in chapter "Cum Secundum," no. 68 and 69; Barbosa in part 2 of "De Officiis et Potestatibus Episcopi," allegation 20, no. 27 and 33; Reiffenstuel in book 4, title 9, no. 497; Engel, "Collegium Iuris Canonici," book 4, title 44, no. 45.

Now, it is abundantly clear from the ecclesiastical sanctions and the teachings of the holy canons that they strongly oppose the practice that the Bishop above laments has occurred in the diocese of Bruges. And indeed, according to the same prelate, the patrimony is usually not perfected in an authentic form, nor is it strengthened by the protection of the law; nor can the ordained one receive the annual fruits of the patrimony, nor does he truly have from it where he can be sustained; nor, due to the ravages of time, is the fund assigned for the title of ordination permitted to be alienated without the permission of the Bishop, so that it may be converted into other productive and certain funds; and—(1) An

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ordination absolutely made, that is, without a title or without a church assigned to the cleric being ordained in which he must minister and from which he must be sustained, was declared invalid by the Council of Chalcedon, from which these canons were taken: not as if the ordination were intrinsically invalid, but as if it were invalid before the external order of the Church, so that he who was thus ordained would be deprived of all the rights and offices of the ordained: which, according to the present mode of speaking, we would rather say is that the one thus ordained remains perpetually suspended. On this matter, one may also see what I have adduced in Vol. III, p. 607.

[*Latin ed. p. 563*]

X xiv. It often happens that an inheritance is established with the assignment of all the goods of the paternal estate, to the detriment of the other children. It has been noted that all of these things are far from being in accordance with canonical regulations and the opinions of the Doctors. Therefore, it is clear that clerics who are in such a condition, that is, who do not possess either an ecclesiastical benefice or a properly established inheritance, cannot be promoted to higher Orders, unless there is an urgent necessity or benefit to the Church, and with the prior permission of the Apostolic See.

Indeed, the Council of Trent, Session 25, chapter 48 on Reform, warns that the rigor of the canons should sometimes be relaxed, if some necessity arises, or if a public advantage occurs. And to reconcile the decree of the Council, which prohibits the promotion of clerics to the sacred Orders without a suitable title of support, with one of the regulations by which the Apostolic See, having knowledge of the cause and having considered the matter, has often granted dispensations, as examples demonstrate.

Indeed, the example of the metropolitan Church of Florence is overlooked, in which, as is noted in the case of the Holy Cross of Sierra, on July 8, 4749, the privilege granted by Eugene IV still holds: that clerics who have served therein for a period of ten years may be admitted to the sacred Orders, even if they do not possess either a benefice or an inheritance.

Furthermore, Sixtus V ordered that priests be ordained in Venice with the title of "Service to the Church," as stated in Campanil, *Diversorium Iuris Canonici*, rub. 8, cap. 4, no. 44, and Garzias, *De Beneficiis Parochialibus*, 2 cap. 45, no. 96. This brief of Sixtus V could not be found in the Roman Bullarium, but it is referred to in the aforementioned Campanil, who also testifies that the same words are found in the Venetian Synod, convened by Lawrence Priolo, Patriarch of Venice, in the year 1592. There, it is read: "It has recently come to our attention that in this city of Venice, due to the great number of nobles and people, there are few benefices, so that many poor clerics, lacking a sufficient marriage allowance, have been promoted according to our constitution. We, therefore, desiring to provide

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for the needs and advantages of each individual church, order our brotherhood that all clerics of this city, who are found by you to be suitable in life, morals, age, legitimacy of birth, and other qualities required by law, even if they are not provided with a title of an ecclesiastical benefice, or an annual pension, or do not possess patrimonial or other goods, provided that they have been assigned to some church of this city, with the consent of the Rector of that same church, and can obtain something for their sustenance from the service and alms generously distributed by pious Christians, and are never to be removed from that church to which they have been assigned, nor to leave it."

[*Latin ed. p. 564*]

564 APPENDIX XIV. "They may and ought to [be ordained], unless provision has been made for them regarding a suitable benefice, or pension, derived from ecclesiastical revenues; or if, being requested by those who are demented, they are to be removed from the church, they may, along with four others, and also the sacred orders, observing the proper times, freely and lawfully promote [candidates], and We, by Apostolic authority, grant to him the faculty for this purpose, by these presents.

The same Pontiff, by a Brief of September 1, 1586, which begins with the words, "From ancient times," granted to the students of the Greek College of Rome who are to be appointed to the office of deacon and subdeacon of the Pontifical Chapel, that they might be promoted to the sacred orders without any title of benefice or patrimony, but solely by the title of said College, as can be seen in volume 5, part 1, of the Roman Bullarium, page 160, § 3.

Likewise, Pope Gregory XIII granted the same to the students of the English College of Rome, that they might be promoted to the sacred orders without any benefice or title of patrimony, as stated in constitution 81, volume 4, part 3, of the Roman Bullarium, page 359, § 12, where it is stated, "and finally, that these same scholars, students of this College, after long studies, or beginnings, or completed labors, may be induced to dedicate themselves to the priestly ministry, for the necessity of the time or place, so that they may become accustomed to the sacred duties and functions, and may perform the services of that church of the Most Holy Trinity, or may be sent forth as laborers, to these same students, with the license of the Protector and the consent and examination of the Rector of said College... without any benefice or title of patrimony... that they may freely and lawfully be promoted to all the sacred and priestly orders, We grant."

The same Most Holy Pope Gregory XIII also granted this to the students of the Colleges in Upper Germany, which were founded by him, as can be seen in volume 5, part 1, of the Roman Bullarium, page 204. This was also communicated by Clement VIII to the students of the Scots College of

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Rome, in a constitution which begins: "In the highest," volume 5, part 2, of the Roman Bullarium, page 349.

To these German Colleges, Urban VIII restored the same faculty; namely, to the College of Fulda, which the Pontiff restored with an endowment of 1800 gold florins annually to be paid by the Apostolic Camera; and this is found in volume 6, Bullarium Romanum, part 1, § 157; to the College of Vienna in Austria, which was also founded by Gregory XIII, and restored by Urban VIII with an assignment of 1380 gold florins to be paid by the Apostolic Camera, as stated in the constitution "Quoniam divinae bonitatis," volume 6, Bullarium, part 1, page 56; and also to the students of the Illyrian College in the city of Loreto, founded and maintained by the generous support of the Alma Domus, as can be seen in the constitution which begins, "Zelus Domus Dei" of June 1, 1627, Roman Bullarium, volume 6, part 1, page 46; and also to the College of Prague.

[*Latin ed. p. 565*]

Likewise, Gregory XIII assigned an endowment to the institution, which Urban VIII later restored, confirming the same endowment of 1530 thalers. Furthermore, the often-praised Pope Urban VIII granted this privilege to the students of the College of Propaganda Fide, allowing them to receive Holy Orders without holding a benefice or patrimony. Now, we must examine the practice of this Holy Congregation regarding dispensations concerning the title for Holy Orders. It is permissible to say very little about ancient practice, except for this one thing, as testified by Campanil, *Diversorium Juris Canonici*, rubr. 8, cap. 4, no. 6, and Garzia, *De Beneficiis*, part 2, cap. 3, no. 97: namely, that the Sacred Congregation sometimes permitted clerics who were without any benefice or patrimony to receive Holy Orders, upon a simple promise from someone who would undertake to provide for their needs, that is, with a simple personal obligation; but, (the words are from Campanil, in the aforementioned place), "he who does not retain a benefice, nor a patrimony, nor a donation, may nevertheless be ordained when there is a shortage of priests, provided that someone is present who promises to provide for his needs, as the Sacred Congregation has interpreted the Council, of which Moder, *De Beornatione Hen et Fide*, book 2, question 6, no. 44, is a witness." Many subsequent resolutions can be presented, from which the mind and practice of the S.C. are more clearly evident. For example, when the Bishop of the Holy Cross of La Sierra in the West Indies petitioned in 1719 for the faculty to admit the inhabitants of that region to Holy Orders, even though they did not hold a benefice or patrimony, and there was no danger, according to the testimony of the prelate himself, that those promoted would appear to be beggars, the following question was proposed: "Should the Bishop of the Holy Cross of La Sierra be granted permission to promote to Holy Orders in the City of Saint Lawrence of La Boranca, those whom he deems necessary, even

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though they do not obtain a benefice, nor a pension, nor a patrimony?" The Sacred Congregation responded on July 8, 1719: "With permission, provided it does not exceed the number of twelve." Again, in Zacynthus and Cephalonia, when the Sacred Congregation, due to a shortage of priests, had granted a predecessor bishop the faculty to promote four clerics to Holy Orders under the title of service to the Church, and the successor bishop petitioned for the renewal of this dispensation, because provision had already been made for the benefices of those previously ordained, and the petition was presented through summary requests, the following was written on July 23, 1749: "With permission, according to the form of the previous dispensation." *Liber 79 decretorum*, page 246. And again, in Emolien, on July 9, 1737, when the Bishop petitioned for the faculty to ordain two clerics serving in the cathedral to the title of service to the Church, taking into account the shortage of priests, the following was also written: "With permission at the discretion of the Bishop," as can be seen in *Liber 407 decretorum*, page 286.

[*Latin ed. p. 566*]

566 APPENDIX XIV. In Valencia, in the year 1761, the Archbishop requested the renewal of an indulgence granted by His Holiness Pope Benedict XIV since the year 1748. For, while the diocese was abundant in parishes, and possessed a large number of parish churches, it was difficult to find suitable priests to serve them, as confirmed by the Apostolic Nuncio; and furthermore, he declared that it was not a matter of mendicity, but rather of providing for those to be ordained, for if all else were lacking, sufficient provision for their support would remain as an obligation, by virtue of the law that binds the ordaining prelate to care for those ordained without a benefice, until they are provided for elsewhere, according to the text in chapter 46 concerning "Praebendae" [those to be provided for]; and that it would be more advantageous to provide for them from the resources of the Church, than to burden the people with constant anxieties due to the lack of ministers, and thus to promote the salvation of souls. From the audience of the Most Holy Father on November 1, 1748, a decree was issued, whereby: "His Holiness benignly approved the proposal concerning the doubt: Whether a new indulgence should be granted to the Archbishop of Valencia, for the purpose of promoting to the sacred Orders of the priesthood, even twenty-four of the most suitable candidates for benefices, who are in need of support, with the title of 'Sufficientia,' in the manner of the preceding indulgence granted by His Holiness Benedict XIV, so that it may be similar to the decisions in the case, etc. The Sacred Congregation, on January 17, 1761, decided: "Affirmatively, for the purpose of ordaining the twenty-four priests, according to the terms of the aforementioned indulgence, as can be seen in the volume 30, page 40, of

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the "Thesaurus Resolutionum" [Collection of Decrees]."

[*Latin ed. p. 567*]

"What, then, is the most recent practice in these cases of the Sacred Congregation, especially concerning the dioceses of the Kingdom of Belgium, is shown by several documents, particularly those granted by the Sacred Congregation among the petitions presented. Among these, it suffices to mention the indulgence granted to one of the students of the Seminary of Namur on September 4, 1837, who, having explained that it was not permissible for him to be promoted to the sacred Orders due to the lack of a proper patrimonial title, and insisting on obtaining a suitable dispensation in the hope of obtaining an ecclesiastical office after leaving the Seminary, the Sacred Congregation, considering the particular circumstances, especially the needs of the Church, provided that there is no danger that those who seek the Orders will be forced to beg, granted, for the sake of the dispensation from the integrity of the patrimony, and at the discretion and conscience of the Bishop, an indulgence to provide for the students before they leave the Seminary with some benefice, or at least with some ecclesiastical office. We observe that this rule of inscription has been maintained in other cases as well, and for various dioceses, as can be seen in Malta, on November 27 of the same year, also recorded among the petitions presented. With these things established, let the Most Reverend Fathers consider whether and how to respond to the petitions of the Bishop of Bruges; whether that principle of uniformity should be observed, which it seems is sufficient for the Prelate to wish to extend the indulgence for promoting clerics to the sacred Orders without a title, even to those clerics who can constitute an ecclesiastical patrimony for themselves; or rather, whether the Tridentine decree should be upheld for those cases in which it can be preserved, because, as Benedict XIV says in his treatise on the Synod, book 42, chapter 3, number 41, the institution and custom of the Apostolic See is such that, in particular cases, if serious reasons so suggest, it does not refuse to grant dispensations from general laws at times; but that those laws should remain in force for other cases, since the Roman Pontiff presents himself as the guardian and defender of the sacred canons and constitutions issued by his predecessors, as far as possible. Let them also consider whether it is advisable to grant an indulgence for the promotion of clerics that would last perpetually, as the Bishop, the petitioner, seems to request; it was not possible to find in the records of the Sacred Congregation whether such an indulgence has ever been granted; nor did the Bishop of Feltre, according to Pignatelli, writing to him from the Oracle of the Pope, wish to indefinitely permit ordinations without a title, as is stated in the aforementioned author, volume 5, consultation 77, number 53, but rather to grant the faculty of admitting clerics without a title to the sacred Orders

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for a certain and defined period."

[*Latin ed. p. 568*]

568 APPENDIX XIV, concerning a determined number of cases, as the practice of this Sacred Congregation indicates, "Furthermore, it is the judgment of the Most Eminent Fathers to consider what the Apostolic Nuncio of Belgii proposes in his information, who, for the more expeditious handling of the matter, so that the affair may not suffer any detriment from delay, believes it permissible to allow the Apostolic Nuncio in Belgii, for the time he resides there, to be granted, by Our Most Holy Lord, the faculty of promoting clerics without a title, at each instance. " The second part of the doubt concerns whether a new discipline, which the Bishop considered should be introduced, should be approved, namely, that those to be ordained should pay a sum of two hundred francs once, so that, from the fruits of the money entrusted to the care of the Bishop, provision might be made for the support of clerics who, through illness or infirmity, can no longer exercise their ecclesiastical duties. The Most Reverend Archbishop of Brugensis states that this appears to be the only way to alleviate the miserable condition of many clerics who, without sufficient, or even without true and fruitful property, are admitted to the sacred Orders and have no means of support, when they no longer have the strength to exercise the ministry or office, as happens daily with vicars and co-operators of parishes, and also with professors laboring in the public school to instruct youth. " He says that only with this appropriate provision can the most serious burdens of the Episcopal table be alleviated, which is obligated to provide proper support to clerics without a title; and it can be presumed that this unequal burden will not fail to add affliction to the afflicted, and that sick clerics will lack the necessary support for their sustenance. Furthermore, it can be added that, which is of the greatest importance, ecclesiastical men would undertake the sacred ministries with greater zeal; nor would they worry about their future condition, lest they fall into poverty (as can happen today), if they were once assured, through the institution of the proposed new discipline, of a suitable support for the entire course of their lives. " Neither does the new method seem to present any difficulties, since perhaps no one to be ordained will exist who cannot procure a modest sum, either from parents or from pious benefactors. Nor do the Bishops of Gandavensis, Tornacensis, and Leodiensis testify that there is any danger of scandal, or of admiration arising among those to be ordained or among their relatives, who have indicated their agreement with the new method, and who have clearly demonstrated that a common fund would be established to assist clerics in need. " On the contrary, the proposed discipline is considered to be useless, and indeed subject to the most serious difficulties, according to

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the observations of the other Bishops of Belgii.

[*Latin ed. p. 569*]

x xiv. Nam in Belgio, in genere, ad maiores Ordines non admittuntur, nisi illi clerici, quos necessitas aut utilitas Ecclesiae videtur requirere, et de quibus est dubia spes, ut, postquam inititi sunt sacerdotio, aliquid officium consequantur, cui honesta pensio a publico aerario assignatur; hinc fit, ut raro accidat, ut viri ecclesiastici non habeant unde sustententur, et de eo quod raro accidit, legem statui non debet, nec introduci debet novissima disciplina quae praxi universae Ecclesiae valde adversatur. Gravissima autem scandala et admirationem in ordinandis et eorum consanguineis suboriri posse ex nova introducenda methodo, asserunt plurimi eiusdem regionis Antistites, sicut reperitur in informatione Emi. Cardinalis Archiepiscopi Mechliniensis ad Eminentissimum Sacrae huius Congregationis Praefectum: "Si ordinandi (ita ille) deinceps loco tituli patrimonialis aut pensionis semel solverentur ducentos francos ad annuos census applicandos, facile evenire posset, ut in hac dioecesi mea tam ordinandis quam eorum propinquis displiceret, et Ecclesiae hostes inde occasionem sumerent calumniandi clerum"; et forsan non effugere apud imperitum vulgus aliquam simoniae speciem eam summam solutionem pro acquirendo iure quodam ad sustentationem futuram, de qua ordinati, maiori sane ex parte, statuto casu haud eveniente, subsidium nullum accipere deberent.

569. Nec satis tutum videretur huiusmodi constituendum commune aerarium, cum spes non sit, ut praesidio potestatis civilis muniretur, et ideo nec difficile posset accidere, ut deprirentur census ex solutionibus singulorum ordinandorum constituti: et eo in casu, qualibus oneribus obnoxiam foret mensa episcopalis, et qualibus murmurationibus et querelis locus praeberetur, satis praevideri potest. Nec etiam ambigendum quin administratio communis aerarii innumeris obnoxia esset difficultatibus, et insuper, utilium inde provenientium, divisio querelis, dissidiis et accusationibus, ipso Episcopo minime excepto, viam aperire posset, sicut in historiis accidisse legimus, antequam de divisione bonorum ac reddituum sapientissime ab Ecclesia provideretur; de quo mentio est in Verulana, Divisionis massae capitularis die 29 Martii 1817.

Obstat proinde etiam illa inveterata Ecclesiae universae praxis, qua, licet patrimonium sacrum confici debeat ab iis ordinandis qui nec Beneficium ecclesiasticum nec pensionem pacifice possident; qua, licet etiam alienatio bonorum in titulum ordinationis assignatorum ipsis prorsus prohibeatur, donec Beneficium congruum assecuti fuerint; attamen nec minima bonorum patrimonialium pars ad ecclesiam transire debeat, atque eorundem bonorum plenum dominium clericis omnimode debeatur; et ideo distrac-

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tio, atque...

[*Latin ed. p. 570*]

570 APPENDIX XIV. The disposal of their property is left to their discretion, as stated in Chapter 9, section 42, concerning testaments. However, if a cleric dies without a will, his goods should pass to his closest relatives by intestacy, and should not be transferred to the Church, unless it is clearly stipulated either in a will or by intestacy that the heirs should leave everything to the Church, as stated in Chapter 4 concerning testaments, and Chapter 4 concerning inheritance by intestacy. Indeed, the most recent method might seem less in accordance with discipline, whereby those being ordained would, albeit in a small amount, but perhaps for many families, lose a significant portion of their patrimonial assets, which would pass to the common treasury, from whose fruits they would perhaps not receive any support once ordained, while diligently fulfilling ecclesiastical duties and services with good health. Moreover, the example drawn from the practice of religious orders is not valid, since ecclesiastical discipline makes different provisions for regular orders and for secular clergy. For while canonical law establishes that regular orders should have everything in common and nothing private, it intends, on the contrary, that ecclesiastical men should be assigned a certain and fixed income, which they may use as their own property without any authority from the Bishop, as Gonzalez states in chapter 3, number 8, concerning benefices and dignities. Hence, parishes and canonical prebends are often distinct: and it cannot be proven by the Sacred Congregation that a common fund is established for them in Chapters where there is a distinction of prebends, as can be seen from the documents of Vasionen, November 22, 4138, and Alatri, December 45, 4826, whereas, on the contrary, the easy division of the common fund into prebends is permitted, as can be seen from the documents of Fermo, July 44, 4804; and especially from Verulana, cited above. Indeed, (1) it is not proven that a complete communion of goods existed in former centuries, as stated in chapter "To the Most Excellent," question 42, number 4, nor in the document "Extravagantes," under the words "Cum inter," and furthermore, from the fact that in the canons of the Apostles it is established that the Bishop should preside over the community and be able to use the common things, if he is in need, which tacitly implies that he might have had something in his patrimony, chapter "We Command," question 42, number 4. The same appears in the canon "Let it be manifest," question 42, number 4, and in the canon "But those," and also in the canon "If a private," as noted by Gonzalez in the aforementioned passage, and although Gregory VIII, in chapter 9 of "On the Life and Honesty of Clergy," writing to Bishops, establishes "that you may carefully examine the resources, revenues, and expenses of your churches, and establish a certain number of clergy, and that their goods may come into common, and that they may eat in one

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house, etc.," nevertheless, this text refers to regular clergy, or

[*Latin ed. p. 571*]

If, concerning the church of the Regular Canons, already constructed and erected as a regular institution, the Glossa and Loterius, book 4 on ecclesiastical benefices, chapter 4, number 4, state: "Therefore, it seems to follow that the constitution concerning the common fund, favoring secular clergy, is contrary to the practice established for many centuries, and to the general discipline of the secular clergy." Furthermore, it is demonstrated from the very title of the Decretals that there are legal remedies in favor of a sick or weakened cleric. It is explicitly stated there that a sick cleric should receive the full fruits of his benefice, and this is further confirmed in chapter 53 of the Decrees, in chapter 4, 2, 3, A, in question 4 of cause 7, in chapter 44 of the Decrees concerning things to be provided, in chapter 1 concerning clerics not residing there, in chapter 6 of the Grandi de Suppl. concerning the negligence of prelates, in chapter 47, question 2, in chapter Licet de censibus and other similar matters. The reason for this is that, as the Pontiff states in chapter 1 concerning a sick cleric, it is so that affliction may not be added to the afflicted; and the other reason is so that, if clerics were deprived of their benefices, no one would be found who could serve in the Church. Moreover, it should not be the case that a pastor is removed from his office due to illness, as it appears from the report of the Bishop himself that this has occurred in the diocese of Bruges, but rather he should be given an assistant, as is deduced from chapter 3, 4, 5, 6 of the same title concerning a sick or weakened cleric; thus, the care should remain with the assistant, while the exercise of the office should be with the assistant, as Fagnan explicitly states in chapter 3 of the same title, number 4, who adds that the text speaks of pastors of churches and those who have the care of souls, from which, by the property of the word, lower curates are derived, in the final chapter of the Decrees concerning prebends, in the chapter concerning the transmission of tithes. And although the assistant must live from the revenues of the church, as stated in chapter 1 of the same title, and should receive a suitable portion from the Ordinary, nevertheless, to the extent that the revenues of the church are not sufficient for the assistant and the sick pastor, then the revenues should first and foremost be at the disposal of the pastor, and consequently, his needs should be considered first; and provision should be made for the assistant by the Bishop or by the parishioners, as Fagnan states with others in the same chapter 3 concerning a sick cleric, number 42. "Nor should it be said otherwise concerning pastors of parishes who are removable at the will of others, as equity itself suggests; and this should also be asserted concerning other clerics who exercise some office, as the aforementioned Fagnan testifies in chapter 40 of the same title concerning consultations, where he states indiscriminately that those who are permanently and incurably unable to exercise their of-

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fice should not be removed from the office or benefice previously held, but should only be given an assistant. Perhaps the cases that the Bishop, the speaker, laments and seeks to address with the newly proposed method are not more frequent.

[*Latin ed. p. 572*]

572. Unless ecclesiastical men are restrained by infirmity, they should not be removed from their office or duty. Furthermore, the condition of Bishops in those regions is to be lamented, since, the Church having been deprived of secular power, and with countless ordination titles and ecclesiastical revenues almost entirely lacking, they are left without the means to provide for the clergy, who, deprived of their own patrimony, or unable to properly fulfill their ecclesiastical duties. It should certainly be considered most equitable, if, insofar as it cannot be otherwise due to the circumstances of the times, some title of support were assigned to those being ordained, in exactly the same way as a pension is provided to Canons and Parishes through the substitution of alien goods; as is demonstrated in practice in Germany, as testified by Phillips, the author of a recently published work on canon law in the German language, vol. 1, page 634, published in Ratisbon, in the year 1845. Finally, it remains for us to say a few words about another matter which the Bishop of Bruges raises, so that the Most Reverend Fathers may be pleased to give their judgment on the latest proposed method, namely, whether, if that form of a clerical title, which is to be called almost a patrimonial title, is approved, this designation of the title can be included in some future edition of the Roman Pontifical: on which point, it should be briefly noted that, although the Apostolic See has sometimes granted that clerics may be promoted to the Sacred Orders with certain subsidiary titles, for example, the title of Mission, Service to the Church, College, or Support, as noted above; and although some of these titles are found to be permanently granted; nevertheless, it has never been the case that those subsidiary titles were included in the Roman Pontifical. And this is not surprising; since, as Ulpian himself observes in *De Legibus*, 8, it is not necessary to mention particular indulgences and particular cases in the general law. Having noted these things pertaining to the matter at hand, it will be for the Most Reverend Fathers to resolve the following:

QUESTION I. Whether it is permissible to grant the Episcopal orator permission to promote clerics to the Sacred Orders without a legitimate and sufficient title of ordination, so that the institution of a new form of title of ordination may be approved in this case.

And, in the affirmative.

II. Whether the insertion of this new form of title may be permitted in some future edition of the Roman Pontifical in this case.

RESPONSE. The Sacred Congregation of the Council, after discussion on August 24, 1850, judged it fitting to respond as follows:

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To 1. Negatively; and provision will be made for particular cases.

To 2. Provision is made in the first.

[*Latin ed. p. 573*]

APPENDIX XIV. How this matter was subsequently addressed is evident from the following rescript, issued at the request of the aforementioned Bishop of Bruges, and which is also reported by the new French periodicals, entitled "L'Echo de Rome" (1), on page 8, dealing with this issue, with these words: "On May 5, 1860, His Holiness, having heard the report of the undersigned Secretary of the Holy Congregation of the Council, and granting the prayers of the aforementioned Bishop, graciously granted the necessary and appropriate faculties to said Bishop, so that, at his discretion and conscience, he may dispense with the usual requirements for the lawful promotion of one hundred clerics, from the rank of Subdiaconate up to and including the Priesthood; provided, however, that the Bishop shall provide for these clerics either through a benefice or an ecclesiastical office, or at least, in the best way possible, shall provide for their support, in accordance with the mind of the Holy Council of Trent, so that they are not compelled to beg, which would be a disgrace to the Order." Under such conditions, several dioceses of that illustrious nation, such as Belgium, are situated, in which discipline and ecclesiastical learning flourish; and a large part of the Catholic world is similarly situated, especially France, as testified by the aforementioned periodicals and other French writers dealing with this matter. Experience teaches that there are two serious evils: first, the excessive poverty of the clergy, by which they lose their external dignity, and often become sluggish and almost incapable of performing ecclesiastical duties; and second, the excessive abundance of income, which, if not accompanied by great virtue, fosters a life of ease and luxury. The consequences of either of these evils are readily understood. However, it seems that it can be stated in general terms that if clerics were educated in their own seminaries, as they ought to be, so that they might acquire knowledge of ecclesiastical matters with good morals and piety, or at least a love for that knowledge, it would be very difficult for these clerics, under the watchful care of a vigilant Bishop, to be compelled to beg before the Christian people. On the other hand, if clerics do not receive an ecclesiastical education in seminaries, as is proper, it will often happen that they become such that neither the Bishop can make use of them, nor can they ever become suitable through their own talent and care, to attain that esteem before the faithful, which is necessary for performing ecclesiastical duties. The people need priests much more than priests need a suitable livelihood. There is this distinction between the two needs: the need for a suitable livelihood reveals itself of its own accord; the need of priests, on the other hand, for which the Christian people suffer, is not always recognized by them, unless the zeal of the priest makes it evident through acts of

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piety or through words of instruction. (1) "Écho de Rome," a review of the works of the Council, of various Roman academies and congregations, a bi-monthly publication. Versailles, at the Director's, rue d'Anjou, 84.

[*Latin ed. p. 574*]

574 APPENDIX X V. CONCERNING THE NEW CROWN OF PRAYERS, NOW CALLED APOSTOLIC, AND THE INDULGENCES GRANTED TO ALL THE FAITHFUL WHO RECITÉ THESE PRAYERS. The Religious Sisters of the Visitation of the B. V. M. in the city of Cenoinanensis in Gallia, for the sake of more quickly obtaining divine mercy, as they themselves explained, for the exultation of the holy Mother Church and of the reigning Holy Father, instituted a certain pious exercise. This pious exercise consists of a certain Crown of Prayers, which they call Apostolic, for the honor of the Most Holy Trinity and for the thirty-three years during which the Word, made flesh, deigned to dwell among men for the redemption of the human race. If you inquire as to the material form of this Crown, it consists of a coin joined to two large beads and thirty-three smaller beads, with three other large beads added. This pious instrument serves to recite the following prayers, in this, this order: On the coin, the evangelical prayer of the Savior is recited: "These things Jesus spoke: and lifting up his eyes to heaven, he said: the hour is come. Glorify thy Son, that thy Son may glorify thee. Sicut dedisti ei potestatem omnis carnis, ut omne quod dedisti ei det ei vitam aeternam. Haec est autem vita aeterna, ut cognoscant te solum Deum verum, et quem misisti Iesum Christum." In the first large bead, the "Pater noster" is recited, etc. In the second: "Laudes et gratiae sint omni momento sanctissimo ac divinissimo Sacramento — In Conceptione tua Virgo immaculata fuisti; ora pro nobis Patrem cuius Filium Iesum de Spiritu Sancto conceptum peperisti." In each of the thirty-three smaller beads, this aspiration is recited: "Cor Iesu sacratissimum da mihi animas." These Sisters received this aspiration from a certain biography of the Most Reverend Father Grollier, who lived among the Oblates of the Immaculate Virgin Mary, and who, exhausted by his labors in the sacred missions, died on June 4th, 1864, at the age of 37; for it is said that from his infancy, nothing was more desired by him than the salvation of souls, and that he constantly aspired to Christ the Lord with this prayer: "Domine Iesu da mihi animas;" and that the divine Master heard his prayers, allowing him to die surrounded by savage peoples whom he himself had converted to the faith. In the other three large beads, the "Gloria Patri" is recited, etc., in honor of the Most Holy Trinity. Finally: "Oremus: Deus qui omnes homines vis salvos fieri et ad agnitionem veritatis venire, mitte, quaesumus, operarios in messem tuam, et da eis cum omni fiducia loqui verbum tuum, ut sermo

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tuus currat et clarificetur, et omnes gentes cognoscant te solum Deum ve-"

[*Latin ed. p. 575*]

"To you we offer prayer, and you sent Jesus Christ, your Son, our Lord, who lives and reigns in unity with the Holy Spirit, God, forever and ever. Amen. The pious Sisters of the Visitation of the B.V.M. of the city of Cenomanensis, having presented this matter to the Holy Father, humbly requested that this kind of Apostolic Crown be enriched with indulgences. These requests, having been presented to the Most Holy Father in an audience on June 28, 1866, were received with benevolence, and indulgences were granted, ordering that they be issued in the form of a Brief, which is as follows:

PIUS, POPE IX. For the Perpetual Remembrance of the Matter.

"It has been brought to our attention by our beloved daughters in Christ, the Religious Sisters of the Visitation of the B.V.M. of the city of Cenomanensis, that a certain pious exercise, commonly called the Apostolic Crown, has been introduced. A copy of this prayer, written in the Latin language, was presented to us and was approved, and we ordered that it be preserved in our Secretariat of Briefs. The principal purpose of this exercise is to render due honor to the Most Holy Trinity, and to keep in the minds of all the faithful the memory of the years in which the Word Incarnate has dwelt among men; but also to obtain divine mercy and the conversion of sinners. In order that this aforementioned exercise may be of greater benefit and spiritual advantage to those who practice it, or who intend to practice it, the same beloved daughters in Christ humbly requested us to deign to grant them the treasures of the Apostolic grace.

"We, to whom it is most pleasing to provide assistance to those faithful who strive for eternal salvation, have approved of these pious requests and have wished to grant the following:

"Therefore, relying on the mercy of Almighty God and the authority of the blessed Apostles Peter and Paul, we grant to all and each of the aforementioned Religious Sisters, now and in the future, and to all other faithful who, whenever they devoutly perform this pious exercise, commonly called the Apostolic Crown, shall be granted three hundred days of indulgence from any penances prescribed to them, or in any other customary form of the Church. Furthermore, to those faithful who perform this exercise daily for an entire month, and who are truly contrite and have confessed and received the Holy Communion, and who devoutly visit any church or public oratory and there offer prayers to God for the concord of Christian princes, the eradication of heresies, and the exaltation of the Holy Mother Church, we grant, in mercy, a plenary indulgence for all their sins,

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once in each month, for each of the aforementioned faithful."

[*Latin ed. p. 576*]

376 APPENDIX XV. We grant [this]. Furthermore, to all and each of the Faithful mentioned above who are truly penitent and have confessed, and who have received the Holy Communion, and who, on the Sunday of the Most Holy Trinity, on the fifth day of the week at the Lord's Supper, and on the sixth day after the Octave of the Solemnity of the Most Holy Body of Christ, immediately following, from the first light of dawn until sunset, devoutly visit any church or public oratory, and there, as above, pray, We grant, on that day, likewise, a plenary Indulgence and remission of all their sins, and a remission of all their penances, mercifully, in the Lord; and We also grant that these Indulgences, remissions of sins, and relaxations of penances may also be applied, in the Lord, for the benefit of the souls of the Christian faithful who, united with God in charity, have departed from this life. This applies to all, notwithstanding any opposition. This grant is valid for all present and future times. We decree that these present Letters, whether transcribed or printed by the hand of a public Notary, and sealed with the seal of a person constituted in ecclesiastical dignity, shall have the same force and effect as if the original Letters were exhibited or shown. » Given at Rome, at St. Peter's, under the Fisherman's ring, on the tenth day of July, 1866, in the twenty-first year of Our pontificate. » An authentic copy of these Letters and privileges has been exhibited in the Secretariate of the Holy Congregation for Indulgences, to be kept there according to the Decree of April 4, 1856. Domin. Sarra, Pro-Substitutus.

JURIDICAL QUESTION: While this volume was almost complete, some of our friends proposed a question, which, as it may be useful to our readers, we will here explain according to our opinion. In the Apostolic Letters promulgated for the recent Jubilee, it is read: «We decree that, » from the aforementioned first of June... concerning the Divine Spirit, in addition to the customary conventual Mass, the Sacrifice shall be celebrated in all the Patriarchal basilicas and other collegiate churches of this city, as well as in all the cathedrals and collegiate churches throughout the entire world, by their Canons... on each and every fifth day, etc.» See p. 505 in the preceding volume.

The question is: Do the words "by their Canons" mean that the celebration of this prescribed Sacrifice pertains only to the Canons, or also to the Beneficiaries, according to the method in force in each church for conventual Masses?

The answer seems to be: negatively to the first part; affirmatively to the second. The reason is that the words "by their Canons" are not restrictive; they could have been expressed in a more solemn and precise manner if the obligation were exclusively imposed on the Canons; but they are merely indicative, incidentally indicating the entire choral college, of which the

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Canons are an essential part. With this established, nothing is changed in the method currently in force for the celebration. This is relevant to what we noted above in the explanation of the case on page 536.

[*Latin ed. p. 577*]

577 FROM THE SACRED CONGREGATION OF THE COUNCIL. CONCERNING THE ADMINISTRATION OF THE SACRAMENTS AND FUNERALS. Dated February 16, 1867, and May 29, 1869. Summary of the Case. This case, which recurs again, was presented in Vol. III, pages 127 and following, which our readers may consult. We have explained the substance of the case as follows: At the beginning of our century, after those horrible wars which devastated all of France, and after affairs had been settled, agreements were entered into between the Apostolic See and the Gallic Government concerning the worship of religion. In Article X of this Concordat, it is written: "Bishops establish new parishes within their respective dioceses." The Bishop N. divided his territory into three regions, and assigned three churches to each region, appointing a Parish Priest to each region. It must be noted that among these three churches is included the very cathedral church, in which a third Parish Priest exercises the care of souls. With the parishes thus established in the territory, the Bishop turns his attention to establishing statutes for his cathedral chapter. Among these chapter statutes, the following are found: Article I. "The cathedral chapter of the church consists of eight Canons and two General Vicars of the Bishop." Article IV. "The Parish Priest B. (that is, the Parish Priest to whom the cathedral church has been assigned), and the Rector of the Seminary, hold a place among the Canons when they are present in the choir." Finally, Article XV. "Ordinary funerals, baptisms, marriages, services, and sermons are performed by the Parish Priest or his Vicars." In addition to the titular Canons, other honorary Canons are added, who, according to the custom of the place, are admitted to possession in the same manner and with the same rites as the titular Canons, and they assist the aforementioned titular Canons, especially on Sundays and holidays. Acts, Vol. IV, section XLVII, 87.

[*Latin ed. p. 578*]

578. ADMINISTRATION OF THE SACRAMENTS. Several years ago, a serious disagreement arose between the Chapter and the Parish Priest of B. concerning the administration of the sacraments to dying Canons and the performance of funeral rites; the Chapter asserting that these duties belonged to them, while the Parish Priest claimed them for himself. Since this controversy could not be resolved, it was finally brought before the Sacred Congregation of Councils, to which the following questions were presented: I. "To whom does the right belong to administer the last sacraments to titular and honorary Canons residing in the parish of B.?" II. "To

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whom does the right belong to remove the body of a Canon residing in the parish of B. and to carry it to the cathedral church and thence to the public cemetery?" And, in both cases, in favor of the Chapter. III. "Can the Parish Priest of B. participate in the funerals of Canons dying in his parish, wearing his stole and cope?" The Sacred Congregation of Councils, after considering the established custom concerning titular Canons, responded on February 16, 1867: To I. Affirmative, in favor of the Chapter, with regard to titular Canons; with regard to honorary Canons, evidence is required. To II. Affirmative, in all respects, in favor of the Chapter, as in the first question. To III. Negative. Since the Sacred Congregation had ordered that, with regard to honorary Canons, evidence should be presented, the parties involved presented new evidence to either refute or confirm the custom concerning said Canons. Such evidence consisted of numerous specific facts presented by both sides, from which we abstain from recounting; however, it is important to note that the evidence presented in the previous case, which favored the titular Canons, also largely favored the honorary Canons. This custom is said to prevail throughout almost all of Gallia. The case was therefore re-presented under the same questioning formulas, and on May 29, 1869, the Sacred Congregation decided to respond as follows: To I and II. Affirmative, only with regard to honorary Canons who reside in the Episcopal city and attend the choir. To III. Negative, with regard to Canons included in the aforementioned resolutions.

[*Latin ed. p. 579*]

AND OF FUNERALS. 579 From which [points] are gathered: I. Although, in controversies, nothing is more commonly invoked by those contending than custom, nevertheless, custom brought into judgment is a difficult thing to prove. II. Custom, which does not appear to be unreasonable, duly demonstrated, namely, through constant and repeated acts over a long period of time, and neither secretly, nor precariously, nor by force, possesses such strength that it has the power to prescribe against the rights of persons, and also to derogate from general laws; especially in matters of funerals, in which custom has always had great force (1). III. Canonicals honoraries (whom Bishops can establish with the consent of the Chapter, or conversely, Chapters with the consent of the Bishop, to increase the worship and the adornment of churches) cannot, by this title alone, claim those rights which, from some fact, certainly belong to the titular Canons, to the detriment of another. IV. Therefore, Canonicals honoraries can only claim those rights which they legitimately demonstrate, either explicitly or implicitly, to have been granted or acquired to them. REGARDING A VOICE IN THE CHAPTER AND A STALL IN THE CHOIR. On December 17, 1836. In our time, when ecclesiastical goods are seized by civil governments, and therefore the most holy institutions of the Church are either suppressed or eliminated,

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the Sacred Pastors, so that they may better serve the divine worship, easily establish Canonicals honoraries in their churches. (1) I said "the power to prescribe," which is derived from the very Resolution of the Sacred Congregation in the present matter, in which the Canons prescribed against the rights of the Parishes; I said "the power to derogate from general laws," which is derived from general principles of law, but also in the present question, for a reason not to be scorned, namely, that this custom, which is legally recognized in the particular case in question, appears from the documents presented to be a custom that prevails almost throughout all of Gallia. In this case, the custom would have derogated in Gallia from the ecclesiastical law from which these rights of the Parishes are derived, and would have introduced another law.

[*Latin ed. p. 580*]

CHAPTER 580. Concerning how honorary canons are instituted, and what rights of honor pertain to them, we have already explained in Volume III, pages 138. But, since this matter frequently arises in our time, it is fitting to add here a case that was discussed concerning honorary canons in the year 1836 in the Sacred Congregation of Councils. While the Bishop of N. was conducting a solemn visitation of his diocese, so that sacred things might be celebrated more decently in his cathedral church, he requested four honorary canons, and asked the Chapter to admit them as brothers. The Chapter, with a willing spirit, accepted the Bishop's request, but with certain conditions attached, which are as follows: "The Chapter receives these honorary canons as brothers, provided that they do not enjoy the right of suffrage, either active or passive, in the Chapter, nor have a place in it, and under no pretext do they interfere with the Chapter when it is engaged in matters pertaining to it; nor do them have any precedence in the choir before the canons of the first or second foundation; but they shall only occupy the last seats in the choir, and never ascend higher; and finally, in pontifical functions, they shall always be preceded by the canons of the first and second foundation." But, after some time, when chapter elections were held to admit new canons in the presence of the Bishop himself, the same Bishop protested: "that he would not accept these chapter conditions; that he wished to grant to the honorary canons all the honors, precedences, and rights, without any reservation, which are granted to canons admitted as brothers; but that he did not wish to declare at this time what those rights were, which would have to be tested in practice; and in this matter he would exercise his authority as Apostolic Delegate, since he was still engaged in the actual work of the sacred visitation." After these words, possession was solemnly granted to them, as is granted to other canons, and all was settled. On January 1, 1833, the Reverend G., as Substitute or Coadjutor of the titular canon of N., was entered in the chapter roll. And the Prefect of the Chapter insisted that he should have a stall in the choir before the

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honorary canons; and furthermore, he convened chapter meetings for the distribution of chapter offices, without calling the supernumerary canons. From this arose the origin of dissensions.

[*Latin ed. p. 581*]

AND IN THE CHOIR. 581 For, when these [Canons] considered their rights to be violated, they brought complaints regarding this matter before the Bishop, presenting the reasons for their case: and when the Chapter also presented its reasons, the Bishop issued a Decree on March 28, 1833, which reads as follows: "The four Canon[s] who are supernumerary and honorary, whom we have elected... having been endowed with their proper rank for the sake of the dignity of the Pontifical [offices], which will be celebrated throughout the year; since it is clear to us that it is within our power to do this according to the sacred Canons and the Decrees of the Holy See on this matter, which have been frequently issued; we decree that they shall have a place in the assistance at the altar and the episcopal chair, and that they themselves shall have a place where it may pertain to them as members of the Chapter. Furthermore, we declare that they ought to precede any Coadjutor or other person who may supply the place of a Canon; and therefore, we annul any and all capitular Decrees on this matter that are contrary to this our Decree... and we decree that the aforementioned supernumerary and honorary Canon[s] shall enjoy the right of suffrage in the Chapter, just as any other titular Canon, except for matters of money pertaining to the same Chapter." The capitulars appeared to comply with this Decree: for the supernumerary Canon[s] served the sacred pontifical [offices] after that, and they preceded the Canon[s] who was the Substitute or Coadjutor: but nevertheless, they were never summoned to the Chapter, and the titular Canon[s] gave the reason for this, saying that there was no reason to summon them. But on August 21 of the same year, when a certain Canon M., who had previously been supernumerary, was co-opted among the titular Canon[s], the Chapter was held, with only the titular Canon[s] being summoned; which caused the supernumerary Canon[s] to be greatly displeased, and the old controversy seemed to revive, and was finally presented before the Sacred Congregation of Councils. Maintaining the usual procedure, the Bishop stated: "The older Canon[s] do not enjoy any special privilege, nor has the fixed and determined number of Canon[s] been established; the honorary Canon[s] (who are called by this name in the first Decree of erection, but are truly supernumerary, since they are so called in the letters patent and have been received as brothers by the Chapter) do not have a prebend; but nevertheless, they enjoy all the privileges and honors that were formerly granted to the older Canon[s],

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which privileges have now been granted by Decree."

[*Latin ed. p. 582*]

In the chapter concerning the discussion of canonical privileges. THOSE WHO BELONGED TO THE HONORARY CANONICAL CHAPTER. — The supernumerary canons maintained that the Bishop could add supernumerary canons to the Chapter, with the consent of the Chapter itself, as is established in the Sacred Congregation of Councils, from a decree concerning Fulginata, dated February 26, 1639, and also from the Edict of December 1, 1731; and that these canons instituted by the Bishop "should have a stall in the choir" and a voice in the Chapter, and that other canons appointed after their institution should precede them in honor and privileges, as the older canons enjoy; this is explicitly stated in the decree of Senogallia, February 25, 1657. From these things, they inferred that they should enjoy all and each of the privileges, just like the other titular canons. Furthermore, they observed that they had acquired a real canonry, since they had been received three times as brothers into the Chapter; for the canonry arises from the election and reception of someone as a brother, or as a canon, as Innocent states in chapter "Cum M." of the decree concerning Ferrariensis, regarding Constitutions. Moreover, the canonry is a spiritual right, by which someone has a stall in the choir and a place, or voice, in the Chapter, which are proper and particular privileges of the canonry. It does not impede, however, that supernumerary canons lack a prebend: for the canonry indeed increases the number of canons, not of prebends, since the mere receipt of a salary does not make one a dean. Glossa in chapter "Cum M." of the decree concerning Ferrariensis, 9, regarding Constitutions. Chapter 9 and chapter "Dilectus Filius" 3, 4, regarding prebends. Finally, they pointed out that, besides the fact that the Chapter had, in some way, relinquished those conditions when it obtained the Bishop's decree, the conditions imposed by the Chapter when receiving the supernumerary canons as brothers, the Chapter could indeed have demanded those conditions; but it was the Bishop's prerogative to decide on their justice: and the Bishop, in this matter, had rightly judged them to be to be rejected. And indeed, in a certain canonry in Alatrina, on February 8, 1727, when a new canon was being received, whom a pious woman had commanded in her will to be instituted, the Chapter had imposed two conditions among others, by which it was established: that the new canon should always stand in the last stall.

[*Latin ed. p. 583*]

AND STALLS IN THE CHOIR. 583 Furthermore, it was desired that it should perpetually lack both active and passive voice in the Chapters, having presented a doubt to the Sacred Congregation: "Whether and how a regular Canonry should be established in the Cathedral of Alatri by In-

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nocentius de Comites," and the response that came forth was affirmative, subject to the conditions prescribed by the Most Reverend Prefect. Indeed, as the Most Reverend Prefect later declared: the Canonry was to be established with all rights, honors, privileges, and obligations, in the manner of other Canons, with the exception that the new Canon, in matters pertaining to him (that is, benefits, rights, and utility), should not have an active or passive voice in the Chapter, etc.

RIGHTS OF THE CHAPTER. — On the other hand, the Chapter defended its rights in two respects: first, from the agreement by which the additional Canons had been received among the brethren; and second, from the very nature and character of the Canonry itself. Regarding the first point, it argued that there was no room for doubt concerning the words by which the Chapter had given its consent to the Bishop. And the Chapter's consent in the creation of such Canons is entirely required, as even the opponents affirmed, according to Fulginalen, February 26, 1639. Therefore, it concluded, if such consent had indeed been given, but under a condition, the conditions imposed must be observed. Moreover, it added, it is entirely free for the Chapter to impose laws and conditions in the very reception of the new Canon, as is stated by the Abbot in chapter *Cum M. Ferrariensis*, n. 29, concerning the Constitutions of Fagnanus in chapter *Dilectus*, n. 1, concerning *Praebendis*, n. 21, De Luca concerning the Canons, discourse 6, n. 3, and discourse 37, n. 2, and others, and the Sacred Congregation in the case of Civitas Castellana, on July 16, 1836, stated that the condition imposed by the Chapter in the acceptance of the new Canon, even if he were a prebendary, must be observed.

Regarding the nature of an honorary Canon, I noted that Ceccoperio, in *Lucubrat. canon.* I, 1, title 14, n. 7, calls a honorary or additional Canonry a "name without substance," preferring a "vacant and empty nomenclature." And he states that such additional Canons are introduced "so that they may be instituted in lesser offices of the Church and serve the older Canons," according to Fagnanus in chapter *Dilectus*, n. 1, concerning *Praebend.*, n. 9. And he adds that these Canons can only possess those rights and honors that are granted to them.

[*Latin ed. p. 584*]

584. The words "IN CAPITULO" concerning the erection and granting of canonical positions have been understood, as demonstrated by Abbot [loc. cit.], by Fagnanus [loc. cit., n. 2, 1, 2, 4], and by De Luca [disc. cit., 37, n. 2]. Furthermore, I observed that honorary canons, in the present matter, since they possess no prebends, cannot in any way participate in the chapter meetings, because they are lacking the canonical rights, which are so closely connected with the prebend that neither can exist without the other, as Fagnanus states in the cited work, chapter n. 17. Nor does the argument presented by Alatrina, especially since it concerns a canon who

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holds a prebend, and not an honorary canon as in the present case, have any relevance. Moreover, the canons inquired as to what should be considered regarding the possession granted to Canon M. in the case where the Bishop's decree is maintained, and concerning the fruits honestly received by the same canon from said possession; however, these matters do not pertain to our question.

Doubts:

I. Whether and how the Bishop's decree of March 26, 1833, should be observed in this case.

II. Whether the chapter's decision and the possession granted to the new canon M. on August 21, 1833, are valid in this case.

III. Whether and how provision should be made in this case.

RESOLUTION: The Sacred Congregation of the Council, after deliberation on December 17, decided as follows:

To I: Negatively, in all respects.

To II: Affirmatively.

To III: Provision should be made as stated in the second point.

FROM WHICH WE GATHER:

I. That honorary canons can be instituted by the Bishop with the consent of the chapter.

II. That honorary canons, besides the right to participate in the choir and other sacred functions, and besides the insignia of honor which are common to them with titular canons, without infringing on any rights, cannot claim any other canonical rights unless they have been expressly granted to them by the chapter upon their reception, even if the Bishop were to grant them, or if they were granted despite the opposition of the chapter.

[*Latin ed. p. 585*]

AND STALLS IN THE CHOIR. 585 III. There exists a certain real distinction between those called "supernumerary canons" and "honorary canons" (1). IV. In the present matter, this distinction has rather been a matter of name than of substance. (Î) Regarding honorary canons, it seems that they lacked nothing of what was proper to canons, except for the possession of a stall, which, as we understand it in our time, those who are considered canons, although they enjoy the true hope of possessing a stall, are intimately associated with a certain right of honor without true obligations, and scarcely any such association can be found. And if any canons speak of these others in a way that seems to ridicule them, calling them "honorary canons" as a mere empty title, and other similar things, these authors are not to be blamed, for at that time the Church was not compelled to

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adopt such vague and changeable institutions; and each person's concept of the Church's institutions was subject to the law, namely, the firmness and strength of the law: for, according to the law, an honor or dignity is intimately connected with an office perpetually established in the Church, and the office is understood to be connected with something from which obligations are derived. But in the age in which we live, the Church is compelled in some way to obtain something that it could not obtain by custom; so that what was formerly extraordinary becomes, in some way, ordinary. However, the ancient authors treat of supernumerary canons, who, although they have a relationship with our honorary canons, differ greatly from them. For canons who, in some particular churches, were sometimes received, seem to be of two kinds in law: some were received as brothers, so that with regard to rights and offices, they were equal to the other canons; and

[*Latin ed. p. 586*]

586. CONVOCATION FOR THE CANONICAL PENITENTIARY. February 27th and May 29th, 1869. Summary of the case. The Metropolitan See of N., in the territory of Sardinia, being vacant, the Canonical Penitentiary office became vacant on February 5th, 1866. The Vicar Capitular issued a call, using these words: "Having before our eyes the Apostolic Constitutions of Paul IV, which begins, *Credita Nobis*, and of Leo X, one of which begins, *Cum*, and the other, *In supremae*, and also those of Gregory XV, which begins, *Supremae dispositionis*, which Pope Clement XI wished to extend to the Kingdom of Sardinia by his special Constitution of November 29th, 1769; having reserved a deliberative vote with the Chapter, and having decreed that it pertains to the Ordinary of the diocese to judge who is more suitable, we have issued these edictal letters, by means of which we summon, require, and warn all those who desire to participate in the aforementioned office, to appear within sixty days from the date of the publication of these present... in this city and in our archiepiscopal Curia, to give their names... for at the expiration of that time... before Us and the Most Reverend Chapter of this metropolitan church, the process of the election will begin, in accordance with the Apostolic Constitutions, and we will elect the most suitable candidate, and thus elected, we will send him to the Apostolic See for the purpose of obtaining provision, in accordance with the aforementioned Bulls." At the time of the examination, the same Vicar informed the Chapter by letter that he wished to confer with them regarding the dates to be set, the hour and place, and the actions to be carried out, in order to resolve any difficulties that might arise. The Chapter responded to the Vicar, stating that it could in no way approve of his conduct, both because he had issued the edictal letters for the call without any knowledge of the Chapter, and because he had falsely and unjustly stated in them that the Chapter's vote was merely deliberative

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in the election of the Penitentiary. However, it requested that the words: "having reserved a deliberative vote with the Chapter, and having decreed that it pertains to the Ordinary of the diocese to judge who is more suitable," be declared to be without any effect in the edictal letters, so that the rights of the Chapter would not be violated; and it wished that the Vicar should definitively recognize the right of the Chapter to elect.

[*Latin ed. p. 587*]

CANONICAL PENITENTIARY ELECTION. 587 candidates were present, of whom the Chapter had judged one to be more suitable after an examination conducted according to the Bulls of Leo X and Gregory XV. The Capitular Vicar, demonstrating a prudent and well-considered course of action, did not deviate from his purpose. Furthermore, he proposed a means of reconciliation whereby, while respecting the rights of both parties, the election could proceed in such a way that, when writing to the Apostolic See regarding the provision of the elected candidate, both sides would present their reasons, and if the Vicar and the Chapter did not agree on the same candidate, then the Apostolic See would admit the one elected by the party that had the right to elect. However, the Chapter, not being satisfied with this, presented a suppliant petition to the Most Holy Father, requesting that he would deign to declare whether, during the vacancy of the Archiepiscopal See, the final judgment regarding the greater suitability among the candidates belonged exclusively to the Capitular Vicar, or rather, whether such a judgment should be made jointly by the Vicar and the Chapter, according to the aforementioned Constitutions of Leo X and Gregory XV. This petition was returned, according to custom, to the Capitular Vicar for information and his vote, who, after considering the aforementioned matters, confirmed them. Based on these considerations, a Decree was issued by the Illustrious and Reverend Secretary of the Holy Congregation of Councils, ordering that the case be examined in detail, and also notifying the Capitular Vicar to remind both the Fiscal Advocate of the Court and the Chapter to present any further rights in writing, as they might wish, and to inform the Holy Congregation of the outcome. Since nothing new was presented that had not already been presented, the case was brought before the Holy Congregation on February 27, 1869; however, it was postponed with these words: "Postponed to the first day after the next" (1).

(1) I have explained what is meant by this clause in Vol. III, page 4514, in a note.

[*Latin ed. p. 588*]

588 Regarding the canonical election, it is stipulated that if the person elected were absent, and the granting of the particular privilege mentioned in these documents pertains to the Holy See, then the matter is governed

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as follows by Rule II of the Chancery: "Furthermore, all dignities and benefices, pertaining to the appointment, presentation, election, and any other disposition of Patriarchs, Primates, and Archbishops (except for appointments made jointly with another or others...), which, after their death... become vacant in any way, and will become vacant in the future, are reserved." (See also the Constitution of St. Pius V, *Sanctissimus... cupiens*). Similarly, from Rule I X, the Supreme Pontiff reserves to himself all ecclesiastical benefices, with and without cure of souls, secular and those of any order, however qualified and wherever existing, during the months of January, February, April, May, July, August, October, and November... for the purpose of appointment, provision, presentation... of any kind, pertaining to them in any way. The entire question, therefore, revolved around the right of election, according to the aforementioned Constitutions, to choose the most suitable candidate among those present, and whether this right belonged solely to the Vicar Capitular or to the Vicar acting in conjunction with the Chapter.

RIGHTS OF THE CHAPTER. — The Chapter, asserting its rights, referred to the Constitution of Clement XIV, which begins: "Recently, at the request of King Charles Emmanuel, we have extended and expanded throughout all of Sardinia the Constitutions previously mentioned, which were issued by Sixtus IV, Leo X, and Gregory XV for the Kingdom of Spain." In the aforementioned Constitution, *Nuper*, it is written: "We decree and declare that the theological and penitential benefices... of the churches of the Kingdom of Sardinia, are included under the statutes and ordinances contained in the aforementioned documents of Sixtus IV and Gregory XV, and to the extent that it is necessary, we extend and expand these same statutes and ordinances to the aforementioned canonical and penitential benefices, and therefore, whenever these benefices become vacant, they must, in the future, be conferred with equal authority and in the same manner, after prior consultation through the affixing of edicts, as prescribed in the aforementioned documents, before the Ordinaries of the place and the respective Chapters of the churches; thus, however, that the judgment of the greater suitability of the candidates should belong to the Bishops, solely through a consultative judgment of the Chapter."

[*Latin ed. p. 589*]

PENITENTIARIES. 589 pills reserved.)) With regard to Apostolic reservations, the following was added in the same Constitution: "We decree that if any such canonries become vacant in the Apostolic month, or if, for other reasons, they are generally or specifically reserved to or affected by the Apostolic See, those elected by the local Ordinaries must, within six months from the date of the election, seek a new appointment from the aforementioned See and obtain Apostolic letters... In all other cases, We order that the provisions of Sixtus IV., Leo X., and Gregory XV. be

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observed. Such special Apostolic letters were communicated to the most distinguished communities with the most extensive clauses of derogation. Therefore, the Canons maintained that this right, which was granted to Bishops by Apostolic letters, when the episcopal see was vacant, reverted entirely to the Chapter; and not through some kind of transmission, but through a natural right that revived; since, according to the ancient discipline of the Church, benefits were conferred by the Bishop together with the Chapter. Furthermore, they maintained that it was not possible to apply the Tridentine decree, Session 24, chapter 16, concerning reforms, which states that when the see is vacant, the Chapter must appoint a Vicar, to whom the entire jurisdiction of the Chapter is transferred, nor could that jurisdiction be diminished or restricted by the Chapter; for the Canons argued that those things which are granted to Bishops by a special reason of their episcopal dignity are not transferred to the Chapter; and therefore, the Chapter cannot transfer these rights, of which it is not the heir, to the Vicar. For no one can transfer to another more rights than he himself possesses. Therefore, when the see is vacant, the particular and proper right of the Chapter to elect Canons is revived; on the other hand, the Capitular Vicar cannot claim that right for himself as Vicar, because the judgment of greater suitability for electing Penitentiaries belongs exclusively to the Chapter. This (though not rightly) was sought to be confirmed by the Canons from a certain secular decree of Victor Emmanuel I., which is said to have prescribed on November 12, 1817: "The decisive vote, which was granted by Clement XIV to the Bishop alone, should be understood as transferred in its entirety to the Chapter, considering it as a single vote of the Capitular Vicar." It was said that this decree had introduced a universal custom in Sardinia, since no one had objected to it.

[*Latin ed. p. 590*]

590. CANONICAL ELECTION. The Canons were likewise striving to resolve another difficulty, arising from the words, "Elects by Ordinaries," which are found in the aforementioned Constitution of Clement X. They maintained that, under the authority of the Ordinary, the term "Ordinaries" in the present matter referred to the Ordinaries who are collators of benefices, and not to the Capitular Vicar.

RIGHTS OF THE CAPITULAR VICAR. Conversely, the Capitular Vicar first observed that the Chapter had not been informed of the calling of the election, firstly because the Archbishop had not customarily done so, and secondly because he was not bound by any legal obligation to do so. Furthermore, with regard to other matters, he noted that, after the Constitution of Clement, the election to the dignity of Canon belonged to the Bishops, so that it could no longer be simultaneous with the Chapter; therefore, when the seat was vacant, this right could not be revived in the Chapter. He also pointed out that the alleged decree of *regium* [Riez] was not an obstacle,

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since the authentic interpretation of that law has only as much authority as the law itself from which it was derived; and since this is an ecclesiastical law, the interpretation of secular power must be disregarded; therefore, if a custom asserted by the Chapter prevailed in Sardinia, it should rather be considered a corruption.

However, the Capitular Vicar argued with greater force that the word "Bishops" in the Constitution of Clement did not merely signify the episcopal dignity, but also the episcopal office; for, according to the common interpretation of canonists, when it is a question of acts of jurisdiction, the term "Bishops" refers to the Ordinaries of the place, and under the understanding of the Ordinaries, the Capitular Vicars are included, provided that it is not a matter of a power that has been granted to the Bishops as delegates of the Apostolic See. This was also indicated in the Constitution itself, as it states: "Those elected by the Ordinaries of the place must obtain a new provision from the Apostolic See within six months." Under these words, the Capitular Vicar should also be included.

Furthermore, he noted that the aforementioned Constitution was issued for this very reason, to eliminate certain abuses that were occurring in some Chapters, especially due to a lack of accurate knowledge of the qualities of those being chosen; but these qualities could not be hidden from the Ordinary, given the numerous relationships he has with his clergy. These are the deductions from the respective sides. Furthermore, certain things were added by virtue of office, drawn from common law, among which...

[*Latin ed. p. 591*]

PENITENTIARIES. 591. It was a matter of prime importance, having been received and confirmed, that the collation of a Penitentiary prebend, when the See is vacant, pertains exclusively to the Holy See, as authentic resolutions commonly teach, as can be seen in Ferraris, *Bibliotheca Canonica*, n. 55 and following, where he wrote: "When the Penitentiary is vacant, and the episcopal See is also vacant, it cannot be provided by the Chapter, although the collation of prebends is common to the Bishop and the Chapter, or even solely to the Chapter; thus it was decided by the Sacred Congregation of Councils, as Garcias reports in *De Beneficiis Parochialibus*, 5, chapter 4, n. 145, Alois. Ricci in *Praxi Fori Ecclesiastici*), resolutions 477, n. 4. Indeed, in the case of a vacant Penitentiary, when the See is vacant, the election and collation pertains to the Pope, even without reservation, and it is not to be reserved for a future Bishop; thus it was decided by the Sacred Congregation of Councils, as Garcias reports in an addition to the aforementioned canon 4, n. 150, etc. Also, Fagnan, in *Cap. Quia, de Magistris, Riganti ad Reg. II. Can.* n. 322. These are in agreement with the Constitution, *Pastoralis Officii*, of Benedict XIII, issued for Italy and the adjacent islands, in which it is also stipulated that, even in the case when a Penitentiary prebend is vacant, and the episcopal See is full,

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and the matter remains reserved for the Holy See, "whenever the collation of a prebend (that is, a theological or penitentiary prebend) pertains to the Holy See, the Bishop must transmit the acts of the competition to the Roman Pontiff, so that he himself may assign and confer the vacant prebend to the one whom he judges more worthy and more suitable in the Lord." However, it should be noted that the Constitution of Clement XIV, being later than the Constitution of Benedict XIII, and being protected by a clause removed and a decree rendered invalid, derogated from the aforementioned Constitution of Benedict XIII; nevertheless, it must be considered whether the Constitution of Clement XIV loses its force when the episcopal See is vacant. With these and other considerations, the following question is to be resolved: "Whether and in what way does the judgment of greater suitability in a competition for a penitentiary prebend pertain to the Holy See in this case?"

RESOLUTION.— The Sacred Congregation of Councils, after discussing the matter in the meetings held on May 29, 1809, decided to respond: "Considering the vacancy of the Archiepiscopal See, it pertains to the Holy See."

[*Latin ed. p. 592*]

596. FROM THE SACRED CONGREGATION OF BISHOPS AND REGULAR CANONS. REPORT. On the 30th of April, 1869. Summary of the Case. Livius, a parish priest, governed one of the parishes which the Swiss Cantons call "parishes," for eight years, and enjoyed the esteem of the parishioners. It happened that a civil magistrate instituted an investigation against a certain woman, accused of defamation, and in conducting this investigation, he discovered many letters written by Livius to the same woman, several years prior, before, that is, Livius was a parish priest. These letters appeared to contain certain expressions of affection, at least, which were inconvenient for a priest, and were therefore sent by the magistrate to the Bishop. The Bishop, surprised by this news, and believing that his parish priest was implicated in the criminal proceedings against the woman, whom he did not know, summoned Livius and asked him whether he wished to be judged by the ecclesiastical authority of the diocese concerning this matter. Livius presented his case and submitted to an examination in the episcopal court regarding the letters written by him to the woman who resided outside the parish. After this examination was completed, the Bishop informed Livius that the aforementioned woman had been found guilty and that he himself was implicated in the proceedings, and that a very grave scandal would arise from this. Therefore, in order to prevent this scandal, he suggested the same course of action: namely, to resign from the parish and to renounce his office in the diocese. Livius hesitated, unsure what he should do in these circumstances. He left the presence of the Bishop, lest he make a decision too hastily, and presented the matter to other prudent men, who assured him that they

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would, without a doubt, follow the Bishop's advice if they were in the same circumstances. Having heard this, Livius immediately wrote a letter of resignation, citing the pretext of infirm health, which was signed by the parish priest, N.

[*Latin ed. p. 593*]

593. IRREGULARITIES. On May 29, 1869. Livius, being twenty-eight years of age, desiring to enter the ranks of the ecclesiastical militia and to advance to the sacred orders of Subdiaconate, Diaconate, and Priesthood, perceived an impediment hindering him, a defect with which he had struggled from his early years: therefore, he turned to the Holy See for guidance. When the Ordinary was consulted regarding the candidate's studies and whether such a deafness existed that he might not be able to hear the voice during the Mass, or whether some danger of admiration among the people might be feared, he responded: "The candidate diligently pursued his studies in letters and philosophy, and for almost two years now he has been studying moral and dogmatic theology, making more than average progress, since he is endowed with an extraordinary intellect and a singular inclination for study. However, his deafness is such that he can with difficulty hear the voice during the celebration of Mass. Nevertheless, neither from this nor from any other circumstance does it appear that any danger of admiration among the people is to be feared."

Summary of the petition. In other respects, the same Ordinary reported: "The candidate has almost always had a private tutor, who used a voice that could be perceived by him; although he could attend public schools, both because the teachers, when instructing, most often use a higher voice than people usually use when speaking familiarly among themselves, and because he himself perceives the voice of the speaker more easily when in his presence. Therefore, his deafness is 'grave not absolutely, but in relation to serving at Mass,' since he usually responds with a subdued voice, and is either to the side or behind the celebrant, and therefore he will need to raise his voice somewhat with him only for a short time, which can be done without any admiration."

OBSERVATIONS FROM THE OFFICE. It has been noted that a deaf person is considered irregular according to canon 78 of the Council of Trent, in which it is stated: "A deaf person or a blind person shall not become a bishop, not as if he were polluted, but lest ecclesiastical duties be hindered." However, in the present case, we are not dealing with a deaf person, but with a person who is hard of hearing, concerning whom the Collectio, lib. 6, q. 6, n. 5, Acta, vol. IV, fasc. XLVII, states...

[*Latin ed. p. 594*]

594. REGULARITY. Concerning Censures and Irregularity. Some attempt to demonstrate that a deaf-mute is irregular, both because he

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is physically impaired and because he cannot properly perform divine offices and ecclesiastical sacraments; however, contrary to the opinion of this author, almost all doctors hold a different view. Ugulinus de Irreg. c. 4, n. 7; Maiolus de Irreg. I, i, c. 2, n. 5, who, among those considered irregular, completely exclude the deaf-mute, yet include the deaf-mute among the irregular. Fermosinus de Corpore vitiatis, q. 3, affirms that a person with difficult hearing is more likely not to be irregular, because the defect of hearing only induces irregularity in a completely deaf person, and he gives this reason: "Deaf-muteness is not of the kind of vices from which religious orders are exempt, since it does not render one absolutely incapable of performing divine offices, nor does it make one an improper minister." Also, St. Alphonsus, Moral Theology, 7, c. 5, n. 405, and others generally agree. On the contrary, it is observed that the relationship of a deaf-mute to a completely deaf person is similar to the relationship of a blind person to a completely blind person. Indeed, the Holy Congregation recently did not grant a dispensation to a blind person (see page 428). Furthermore, the present matter concerns not a case where a dispensation is more easily granted by the Holy See, but a case where a dispensation is requested. Nevertheless, with regard to the reasons for a dispensation, consideration was given to the excellent testimony of the military Ordinary, which I mentioned above; the scarcity of military priests, which is felt everywhere; and the danger of causing offense when the deacon serving at Mass could be heard. Moreover, there are examples of this dispensation in more difficult cases, as happened in a certain case in Treves on January 27, 1855, through summary petitions: in that case, not only was a deaf-mute involved, but also someone who was so deaf that he could not hear those serving as ministers; and it was not a case of promotion, but of advancement. Nevertheless, the Sacred Congregation responded: "For the granting of a dispensation concerning the aforementioned defect and qualification, with the necessary precautions, the first clerical tonsure, and also the minor and sacred orders, up to the priesthood inclusive, may be conferred, after consultation with the Most Holy." The Sacred Congregation of Councils, after considering the petitions presented in the meetings held on May 29, 1869, decided: "For the granting, as a precaution, of a dispensation concerning the aforementioned defect and qualification."

[*Latin ed. p. 595*]

595. OF IRREGULARITIES. These are certain impediments to the valid reception of Holy Orders, and to the exercise of the sacred office, which, while not involving a defect of the body, must nevertheless be observed, and which extend from the first clerical tonsure up to the Priesthood itself, within the most Holy Sacrament.

I. It is universally understood that the sole reason for the Church's law, which prevents those with bodily defects from receiving Holy Orders, is to

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ensure the proper and decorous exercise of the ecclesiastical ministry. (1)

II. Therefore, not all who suffer from some bodily defect or infirmity are to be considered irregular, unless such defect or infirmity renders the exercise of the ministry connected with the order either impossible, or dangerous, or scandalous, or causes shame and wonder, or creates scandal among the people.

III. Hence, a man who is missing a leg, as is the common opinion of the authorities, is not considered irregular; nevertheless, the Holy Congregation for the Propagation of the Faith has granted a dispensation for such cases, and has extended this dispensation indefinitely, from which it might perhaps be inferred that the same applies even to the Episcopate. (1)

In the canons which are found under the name of the Apostles, in canon 77, according to the most accurate edition of Cardinal Pitra, it is written: "If anyone is lacking an eye, or has lost a leg, he is nevertheless worthy of the Episcopate; let him be ordained." For it is not a bodily defect that defiles, but a defect of the soul. However, it has become customary that he who has lost his left eye, which is called the "canon's eye," is considered irregular because of the difficulty in reading the Canon. And in the subsequent canon, which I mentioned above, where the words are found, "not as one who is defiled," Cardinal Pitra, in that most learned work, based on conjectures that are not to be dismissed, believes that it should be read as: "not as one who is injured." Nor is it otherwise found in the Decretals; it is written in chapter I, on bodily defects, that Alexander III responded with these words: "Concerning the presbyter of Campania, who voluntarily offered himself for battle and accepted the offer, and in the battle lost part of his finger, we respond that, since he has not lost so much of his finger that he cannot solemnly celebrate the Mass without scandal, you can act mercifully towards him after he has performed his penance, and allow him to minister in his order, although his excess was very grave." And a certain response of Innocent III, in chapter 7 of the same title, reads as follows: "Thomas, a monk, proposed that, when he was a boy, a certain iron bar, falling accidentally upon the thumb of his right hand, tore off the nail from it. Therefore, we command that, if he is able to break the bread with that thumb, and if there is no other impediment, you should not dismiss him because of this deformity, but should promote him to the order of Priest."

Indeed, according to the sacred canons, an eunuch, who has mutilated himself, is considered irregular; nevertheless, he is removed from the altar not as one who is bodily defective, but as one who is a murderer of himself, as is expressly written in the Canons of the Apostles 22, 23, 24, and from canon 1 of the Council of Nicaea.

[*Latin ed. p. 596*]

592. CONCERNING THE CANONICAL ELECTION OF A PENITENTIARY. FROM WHICH YOU MAY GATHER: I. Although a special law

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prevails in the jurisdiction of Sardinia concerning the collation of the Penitentiary Prebend, when the episcopal see is full, in the case where the law of reservation is in force, that same special law does not prevail when the episcopal see is vacant. II. The present question has been twofold, the first being whether the words added to the Constitution of Clement are to be understood to include the vacancy of the Penitentiary Prebend. III. The Holy Congregation has judged that it is not to be included; therefore, the common law applies, by which, when the see is vacant, the collation pertains to the Holy See (1). IV. Finally, you may gather that decrees issued by lay authorities concerning ecclesiastical matters, to which the supreme ecclesiastical authority has not given its approval, have no force (1).

(1) After carefully examining those words in the Constitution: "We decree, that if a Canonry of this kind should be vacant in the Apostolic month, or if, for some other reason, whether by reason of a person or place, it should generally or specially be reserved to the Apostolic See, those elected by the local Ordinaries must, within six months from the day of the election, seek a new appointment from the aforementioned See and obtain Apostolic letters": it is clearly the case that all reservations are being discussed that can occur when the see is full; and there is no word that indicates reservations that occur when the episcopal see is vacant. Therefore, both the Vicar and the Chapter, not very carefully considering the first question, were arguing from a false premise.

[*Latin ed. p. 597*]

RENUNCIATION. 597. From which point, having requested that a decision be made, he sent a letter to the Bishop, but omitting the date which he had been instructed to include, either for the Parish Priest N. or for the Bishop, whichever could be done sooner, so that in the meantime he might continue to collect the revenues of his parish. Furthermore, he added prayers, that the Bishop would release him from such difficulties and grant him testimonial letters, and a financial subsidy from the diocesan treasury. The Bishop, having accepted the parish's resignation, promised Livius that he would do his best to suppress these letters. With matters thus arranged, Livius went to another city. However, such a sudden abandonment of the parish provided an opportunity to spread rumors against the good reputation of the Parish Priest. Finally, Livius, whether because he had learned that he had nothing to do with the woman's process, or for some other reason, to avoid any possible scandal, wrote to the Bishop and complained of the unfavorable rumors that had been spread about him in the parish, and at the same time, he challenged the validity of the parish's resignation for two reasons: first, because the date had not been included; and second, because it had been extorted through fear and under a manifestly false pretense. He added that, if this resignation should perhaps later be deemed necessary, he would discuss this matter with the Bishop; meanwhile, how-

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ever, he considered that, for his own sake, for the honor of the parish, and for the obligations he had undertaken for the parish, and for the debts owed, he ought to return to it. The Vicar General, acting on the Bishop's mandate, replied that the parish had already been entrusted to another Parish Priest, and that the act of resignation had been formally submitted by Parish Priest N., to whom Livius himself had granted this authority, and had been transmitted to the Minister of Cults. Livius did not accept this, and sent another letter to the Bishop, pleading that he be restored to his parishioners, who had still shown him the most excellent signs of veneration and benevolence. In truth, the parishioners had appealed to both the Minister of Cults and the Apostolic Nuncio, requesting that Parish Priest Livius be restored to them. However, when the Bishop did not respond to this second letter, Livius received another, in which he stated that he would appeal to the Holy See, 1° against the act of resignation of the parish, considering the title to be immovable, as having been issued by the Bishop under coercion, under a false title or erroneous grounds, and without being signed by his own hand with a date.

[*Latin ed. p. 598*]

598. RENUNCIATION. 2° Against the abuse of a calumnious interpretation arising from a private correspondence, to the detriment of one's honor. What has followed from this due to agitation of the mind is of no consequence; but what cannot be passed over in silence is this: that the Minister of Worship, with the consent of the Bishop, sought to settle the matter; for the Parish Priest inquired of the Minister, first concerning the episcopal vestments which the Bishop had promised to suppress, and then concerning another portion of the pension from the diocesan treasury, in addition to that which he already received from the funds of the State, so that the entire pension should be 1,200 francs. The Minister, for his part, agreed to this, and informed the Bishop that Livius, the Parish Priest, fully consented to the resignation, having obtained both things. In fact, the Parish Priest also received a portion of the pension from the diocesan treasury. With things brought to this point, it seemed that all controversy was settled; but the Parish Priest did not rest, but, impugning the act of resignation, appealed to the Holy See. Therefore, with due observance of the customary procedures, the question was presented before the Sacred Congregation under the doubt which is stated at the end.

Synopsis of the Discussion.

THOSE ARGUMENTS PRESENTED IN FAVOR OF THE PARISH PRIEST, which were written in the Consultation performed according to custom, considered the effect of the renunciation to be the loss of any right in the benefice resigned, according to chapters 3 and 6 on Renunciations. In a complete matter, he who has resigned a benefice can indeed revoke his decision; but he cannot invoke the title of beneficiary if he has simply

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and purely relinquished it, if the resignation has been admitted by a superior, according to chapter 12 on Renunciations. However, in order for a renunciation to produce its effects, it is necessary that it be made for a just cause; since the office inherent in benefices pertains to public right, the beneficiary cannot, for any reason, relinquish it: therefore, a renunciation made for an erroneous cause or based on a false supposition is of no validity. Furthermore, in order for a renunciation to be effective, it must be spontaneous and free, and not motivated by force or fear, even reverential fear, according to the chapter "Ad audientiam, de iis quae vi."

[*Latin ed. p. 599*]

RENUNCIATION. 599 Therefore, if he who has resigned a benefice subsequently seeks to reclaim it, it can indeed be denied by invoking the exception to the freely given renunciation; but if he impugns the very renunciation itself, it is the duty of the judge to intervene, as Clement III stated in chapter 5 concerning Remission. "Regarding what you wish to know, whether the exception of a freely given renunciation of ecclesiastical benefices is admissible without examining the cause, and whether proof should be admitted from the plaintiff, who did not spontaneously renounce, or from the defendant, concerning the spontaneous renunciation? We shall answer your inquiry, that there is no reason to believe that anyone would readily and without a significant cause spontaneously resign a benefice, which he may have acquired after considerable expense and effort, and which he is obligated to maintain; therefore, we do not believe it is superfluous to diligently inquire into the cause of the resignation. If, however, the judge finds a probable cause, that is, that the resignation was not obtained by force, fear, oppression, or by the intervention of money or coercion, especially if there was no oath involved, which is scarcely believed to be given of one's own free will, and if no canonical reply has been appended, then it should not be delayed to admit it. Furthermore, although there is no proof of the fact itself by the nature of things, we believe that proof should be admitted from him who denies the spontaneous renunciation (since his assertion is implicitly and in a certain way contradicted by his conduct, considering his status and reputation). Therefore, it has been observed that the entire question in the present matter is reduced to whether Livius spontaneously renounced, and whether a just cause intervened. It was evident that Livius did not voluntarily leave the parish, given the circumstances and the sudden appearance of events, in which he seemed to be implicated in a criminal process, and he was summoned to issue a renunciation and, in a sense, to suffer exile, after having earned the respect for his diligent care of the parish eight years prior. However, such fear was unjust, since a lower civil judge later declared that the aforementioned letters contained nothing less than blasphemy. If those letters had been found to be entirely unworthy of a priest, Livius might

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perhaps have been punished by some canonical censure, but not deprived of the parish, for such a severe penalty cannot be imposed except for very serious offenses. Indeed, after a long interval of eleven years, in which the matter was clearly...

[*Latin ed. p. 600*]

600. ON RENUNCIATION. It had been demonstrated that the signs of impropriety did not exist, and therefore there was no longer any reason for canonical censure. Furthermore, there was no just cause for the renunciation; for the reason given in the act of renunciation, namely, infirmity of health, was manifestly feigned. The real reason, on the other hand, was imaginary, and the matter was resolved by the fact that those letters never truly pertained to the woman's case, nor was the woman ever thrown into prison; hence, there was no scandal to be feared, nor any necessity for renunciation.

WHAT WAS PRESENTED TO SUPPORT THE VALIDITY OF THE RENUNCIATION. On the contrary, it was considered that there was no violence or deceitful circumvention in the present matter. For the letters to the Bishop, delivered by the superior civil magistrate, which were found during the criminal investigation of which we spoke, were also, in some parts, marked by the magistrate with certain signs of censure. And in the entire course of events, either the Bishop or anyone else should have considered the scandal that would arise, both for the entire clergy and for Livius, through public judgment. Moreover, since it was established through examination in the episcopal court that the letters were written by Livius, there was no more opportune way to protect the honor of either the clergy or Livius than through a voluntary renunciation by the parish and, at least temporarily, his absence from it. This indeed happened; however, it cannot be said that the Bishop forced Livius to renounce, but rather that he simply suggested the idea to him. This is especially evident from the fact that Livius, not agreeing with the Bishop's advice to consult with others, went to other men, namely, to the parish priest N., from whom, after recounting the series of events, he requested advice; and that the parish priest, because of the gravity of the matter, did not dare to give direct advice, so as not to seem to be forcing Livius in any way, but rather indicated what he himself would have done in those circumstances. Therefore, Livius renounced the parish after considering and weighing the circumstances. Furthermore, from the accounts given, it is clear that Livius did not show any signs of a disturbed mind in his actions, but rather that he primarily intended to obtain a pension and letters of recommendation, with which he could exercise the ministry in another diocese.

[*Latin ed. p. 601*]

RENUNCIATION. 60. Whereas, although external violence may have

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been absent, concerning the real cause of the renunciation, it has been noted that Livius certainly should not have been subjected to such a thing, nor could those letters have been published, nor could they have been published without at least some scandal. Nor can the signing of the day be detrimental, if the day was signed by another deputed by him for that purpose. And if the renunciation were to be considered invalid from its very beginning, yet after the reclamations, Livius instituted a certain treaty of conciliation with him, and, at least in the accepted facts, he appeared to have consented to the renunciation, and confirmed it by his actions: even more so, because he obtained his letters, and an annual pension, which corresponded to the fruits of the dismissed parish: hence, a new parish priest had been canonically appointed to that parish. Considering these and other things, the purpose is to resolve the doubt: "Whether and how a renunciation of a parish is sustained in this case." RESOLUTION. The Holy Congregation of Bishops and Regulars, having knowledge of the matter in the meetings held on April 30, 1869, judged it fitting to respond: Affirmatively in all respects, and furthermore. FROM WHICH YOU MAY GATHER: I. Ecclesiastical offices, established by public law in the Church, cannot be dismissed at the arbitrary will of those who canonically possess them: but, besides the will of the one dismissing, a just cause must be admitted by the legitimate Superior. II. Therefore, a renunciation of a benefice, obtained by force and fear, without a just cause intervening, cannot be sustained in judgment, even if it has been accepted by a legitimate Superior. III. However, a renunciation made for this purpose cannot be called forced, if it was made out of fear, which is called internal: especially if such fear has its cause in the very one dismissing, which is not found to be unjust. IV. In the present case, both were present: indeed, the parish priest, after dismissing himself, later accepted such compensation, so that...

[*Latin ed. p. 602*]

602. ON RESIGNATION. Rather, it seemed that a certain exchange of things had taken place, rather than a pure resignation. V. A benefit duly relinquished cannot, by law, be reclaimed under the first title (1). OF THE CARMELITE ORDER. On March 23, 1869. CONCERNING THE EXTENSION OF PRIVILEGES AND SPIRITUAL GRACES TO ALL CARMELITE MONASTERIES IN GALLUS. DECREE. "In these latter times, at the request of the respective Ordinaries, Our Most Holy Lord Pope Pius IX has deigned to grant to certain monasteries of the Sisters Carmelites in Gracias the communication of privileges and spiritual graces, by which the nuns of the same order, who reside elsewhere, enjoy, even though they pronounce solemn vows, and even if they only emit simple vows. Recently, however, several Bishops of Gallus, in which there are many monasteries of the Sisters Carmelites, have considered it expedient for the spiritual benefit and comfort of these Sisters, and have petitioned this Sacred Congregation of

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Bishops and Regulars, so that the aforementioned Apostolic favor may be extended to all the Sisters."

(1) This case bears some resemblance to what we read in chapter 3 on Resignation, where the response of Alexander III is contained, which is as follows: "From the report transmitted by the Abbot of Saint N. of Caparona, it has come to our ears that Peter Rubens, being infirm, requested that he be permitted to receive the monastic habit at the monastery of Saint Savior; who, having recovered his health, later came to that monastery to fulfill his vow, and after staying there for a while, he had restored to him those things which he had given to the aforementioned church of Saint N.; now, however, he is laboring to change his mind, so that he may be restored to the aforementioned church. But since that church is already considered to be free from him, from which it follows that those things which he had given to it, he resigned to fulfill his request; we command that (if the matter is so) the aforementioned Abbot and his brethren should not be compelled in any way to receive P.; nor should you allow the people of Caparona to compel them; however, you may encourage them to receive him not as one of the church, but as a new member and brother." Compare also the case that I cited in Vol. 1, page 231.

[*Latin ed. p. 603*]

OF THE CARMELITE ORDER. 603. Carmelite monasteries are extended throughout Gallus. Furthermore, concerning the aforementioned matters, a report was presented to Our Most Holy Father in an audience held by the undersigned Lord Secretary of this Holy Congregation of Bishops and Regulars on March 5, 1869. His Holiness deigned to inquire whether all and each of the monasteries of the Sisters of Carmel, which are found in Gallus, should be granted, as is provided by the tenor of the aforementioned Decree, the communication of all privileges and spiritual graces with which the religious Carmelites, who have taken solemn vows, enjoy; but so that they also, in the future, may pronounce simple vows, and have no exemption from the jurisdiction of the Ordinaries (1). "Given at Rome, from the Secretariat of the Sacred Congregation of Bishops and Regulars, on March 23, 1869." A. Card. QUAGLIA, Prefect. Place of the Seal of the Holy.

(1) Since, due to the vicissitudes of the politics of the present age and civil laws, in several regions of Catholic Orders, religious women, who previously could pronounce solemn vows in those same regions, are now permitted only to pronounce simple vows, it has happened that such religious women are deprived of that great privilege, and they seek that other spiritual privileges be granted to them, with which their Order enjoys in other regions, in which religious sisters can pronounce and fulfill solemn vows. Such indulgences, or rather, declarative extensions of spiritual favors, are generally granted through general declarations already issued. In this

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matter, it is fitting to recall that the Holy Penitentiary wrote to the Bishop of Cenomanensem Svegliali, Secretary, on December 23, 1833, who, after learning of the vows that are presently pronounced by religious women in the kingdom of Gallus, as simple vows by the Holy See, inquired: "Whether the spiritual privileges granted to religious, e.g., in diligence, nevertheless remain." To which the Holy Penitentiary responded: "The Sisters of the monasteries of Gallus can enjoy all the Indulgences that have been granted to religious or institutes of other religious women who pronounce solemn vows, according to their respective institute or rule: and this is by the Indult of Pius VII, confirmed by His Holiness Gregory XVI." See also the Decree of the Sacred Congregation of Indulgences, which I cited in Vol. I, page 742, and another, if you wish, on page 688 of the same volume, which refers to the same Carmelite Sisters.

[*Latin ed. p. 604*]

604 FROM THE HOLY CONGREGATION. OF THE NEAPOLITAN OR ROMAN RITES, CONCERNING THE BEATIFICATION AND CANONIZATION OF THE VENERABLE SERVANT OF GOD, BROTHER JOHN BAPTIST OF BURGUNDY. The decree regarding the introduction of this cause was presented on page 544, by virtue of which the Venerable Servant of God is considered. The present cause represents John of Burgundy under that particular concept of sanctity which we have of Saint Aloysius Gonzaga, and also of his companions, Saint Stanislaus Kostka, and Blessed Berchmans.

OUTLINE OF HIS LIFE. — John Baptist of Burgundy, born in the Gallic province, from pious and honorable parents, Anthony Diu Truncheth and Claudia Stephanetta of Alippis, at the beginning of the eighteenth century, on July 30th, in the valley of Myeges, within the territory of Salina, subject to the Archbishop of Visentino, and precisely in the humble village of Bellichut. In the sacred font, he received the name Claudius and Francis, which names he later changed during his religious profession to that by which we now call him. This our brother was orphaned by both parents within nine months. His older brothers had already left the family, having departed for Rome to dedicate themselves to the business of commerce. Therefore, John was received into the home of his paternal grandfather and was raised under his care. Even from his infancy, he gave signs of future sanctity. For, as is reported, in his childhood, he was marked with the sign of the cross and sprinkled with the lustral water by the nurse, both in the morning and in the evening, so that if, at any time, the blessed water was lacking, and he could not therefore be marked with it, he would weep vehemently. Having grown a little older, he desired nothing more than to learn the rudiments of our faith, and he showed a singular desire to learn a certain prayer, the first words of which are: "I beseech you, Holy Mary," for this is what he requested from his grandfather: "Teach me, I beg you: I beseech you, Holy

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Mary." And if he desired anything more promptly and eagerly...

[*Latin ed. p. 605*]

NEAPLES OR ROME. 605. Domestic servants, from a young age, were obtained by the boy John, provided they promised to recite that very prayer, so that he might learn it. But if we were to speak of his virtues and angelic purity, our words would exceed the limits of our writing, which refers only to the outlines of his life. Having completed his first seven years with his grandfather, the boy John was sent to his uncle in France to be educated. Contemporary witnesses recount that, at that age, he avoided childish games, abstaining constantly from desirable foods among the other boys; he spent the time that remained in attending church and reading books of Christian piety. When John made great progress in the rudiments of the French language, he eagerly undertook to learn Latin, at the suggestion of his tutor, until his brothers, who were in Rome, wished him to be with them in Rome. Upon receiving this news from his uncle, John was so overjoyed that, although he suffered from a foot ailment, he seemed to recover from the thought of going to the Holy City, and in that youthful age, he undertook a long and difficult journey on foot, with snow and ice, along with his companions, and completed it safely, not without a special providence. Arriving in Rome, he was thirteen years old and lived with one of his two brothers, and he attended the schools of the Gregorian gymnasium for four years, until his entrance into the religious life. In pursuing this course of studies, he followed a way of life that those advanced in Christian perfection demonstrate. Indeed, only two things occupied the mind of John: the study of letters and the perfection of Christian life, so that he neither acted nor spoke, except about what fostered both; he recognized no places other than his home, the gymnasium, and the church, in which he meditated, as it were, ecstatically on the sufferings of the Martyrs depicted in paintings, or on the most important deeds of the Saints. He was always alone on the way, avoiding the particular friendships of his classmates, and he looked at no one, whether man or woman; he overcame with admirable equanimity all the obstacles that are lacking to no one in the pursuit of Christian perfection. With this firmness of mind and progress in virtue, the young man prepared himself for that kind of religious life, which he later embraced in the Seraphic Order.

[*Latin ed. p. 606*]

606 In Naples, as the seventeenth year of his life approached, a year which he had already greatly desired in his heart, he resolved to do so; and he requested admission into the Order of the Minor Friars of Saint Francis of stricter observance, at the sacred retreat of Saint Bonaventure in the city, which retreat he greatly preferred. Thus he resolved, after the counsel of his prudent Confessor. Finally, after the deliberations of the

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Superiors, he was received into the Order, as was customary, and sent for his initial training to the monastery of Ponticelli among the Sabines, where for eight months, during which time he lived there, he was an example to the others of religious perfection, endowed with angelic virtues. But, since he seemed already worthy of heaven, it happened that, while he was tending a garden, a watering trough struck his chest unexpectedly, and he remained injured in his heart; this produced an aneurysm, from which he never fully recovered, either in body or in spirit. Therefore, by order of the Superiors, he returned to Rome, so that, after hearing the advice of physicians, he might be cured of his illness. However, after an examination was made and the gravity of the illness was known, John should have been dismissed from the Order; but, by a certain singular providence, it happened that the Superiors instructed the physicians to care for him, and the outcome of this care was such that John seemed to have completely recovered. Therefore, he was sent again to the house of the Novitiate from which he had departed, so that, after spending only two more months there, he might be admitted to solemn profession. Finally, in the year 1720, on November 19th, he made his solemn vows; six months later, he was sent to another monastery in Vici Varroni, where he began his studies of philosophy. But again afflicted by illness, he was advised by the Superiors to abandon his studies and to prepare himself for death. With less care for his studies, in the year 1722 he returned to Rome, and, for the sake of his health, he moved from one monastery to another, and then returned to Rome. In the meantime, John had reached his twenty-fourth year, and his Superiors ordered that he should be ordained to the priesthood. In the Jubilee year of 1725, on May 26th, he received the order of the priesthood from Benedict XIII, the Supreme Pontiff, in the patriarchal Lateran Basilica, dedicated to Saint Philip Neri. Afterwards, at the advice of the physicians, he went to Naples in June of that year.

[*Latin ed. p. 607*]

AT ROMA. In the year 607, his sanctity shone forth in a remarkable way. But on March 22nd, he passed away most piously, receiving the kiss of the Lord. The following day, after the burial, the body of the blessed John was exhumed, and it was found with its eyes open, in the same manner in which it had been buried; and they appeared bright and clear, as if of a living person. When a witness placed a rose in his mouth, the same rose was found green and flourishing, with the same fragrance as when it had been placed there. But what is even greater, after three days, his body was found intact and flexible in all its joints, so that it appeared as if it were alive, and pleasing to the eyes; and small blood vessels yielded a plentiful supply of vivid and clear blood, so that many of those present dipped cloths in it. On the sixth day after his death, the body was again examined, and it showed the same integrity and flexibility, and its eyes were open and bright,

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as if of a living person, and so that his countenance inspired joy; and it is said that the flower that had been placed in his mouth was seen to be unharmed and flourishing, even before the first exhumation. Indeed, on the seventh day after his death, at the command of obedience, blood was drawn from him, and in such abundance that a hundred or more present were able to have cloths soaked in that blood. On the same seventh day, the body was placed in its tomb, and it was again disturbed to be placed in a special sepulcher; and fifteen days after his death, witnesses testify that it was incorrupt, with the same wondrous signs, without any change, without any foul odor, although it had previously been dissected multiple times by skilled surgeons, who have declared that all these things were undoubtedly miraculous.

A SYNOPTIC ACCOUNT. OBSERVATIONS OF THE PROMOTER OF THE FAITH. After the advocate for the cause had presented a commentary on the life of the Servant of God, and had set forth individually his heroic virtues, whether theological or cardinal; also his precious death, his reputation for sanctity, both before and after his death, and the fame of his miracles, the Promoter of the Faith, as is customary, presented his observations. The Promoter especially raised the issue of the lack of fame for sanctity or its continuation; which observation would be very serious at the beginning of these causes, if it were not refuted by contrary evidence: but for the sake of brevity, I will mention one or two observations.

[*Latin ed. p. 608*]

608 NEAPOLITANA. After the Promoter, having considered the matter concerning obedience, had spoken these words: "Indeed, it is said that when the Servus Dei was prescribed remedies by the physicians, he did not submit to them, and the physicians and attendants searched for him in vain, and this was demonstrated by the testimony of one witness, who spoke of unctions being administered and other external remedies being applied to the parts of the body, and this witness testified to these things in order to demonstrate the great modesty of the Servus Dei," the Promoter added, noting that the reputation of sanctity had arisen, not indeed from the heroic virtues of the Servus Dei that were observed, but from signs that were said to have occurred after his death; and in order to demonstrate this, he cited certain statements of witnesses. And such signs and wonders, he noted, were attributed to some incorruption of the body, and to the flow of blood; but these, he said, were not sufficient to cause the cause to be promoted in the Holy Congregation. Indeed, this was fitting; for Heys writes: "The natural temperament, by which bodies can persist for a long time, can also be acquired through illness, as in those afflicted with consumption and marasmus (as happened to the Servus Dei), in whom almost all the moisture of the body is drained away by the morbid force of heat and dryness, so that what remains of the flesh is, as it were, hardened like smoke, and is not

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easily attacked by putrefaction." Zachias, quoted by Benedict XIV, writes: "Furthermore, as we have said, the type of illness with which the body was afflicted at the time of death also contributes to the rapid corruption of the body: if it was dry, such as consumption, atrophy, the most intense fevers, and the like, it is more easily corrupted; if it was moist and arose from great putrefaction, it is corrupted without delay." Benedict XIV, in his work on canonization, I, chapter 30, number 6, regarding the flow of blood, states: "Blood remaining in the body after death cannot be considered among the miracles shortly after death. For, as will be seen below, when we speak of imagination and its powers, blood often flows from the bodies of the dead after a few hours, and sometimes even after three days."

WHAT THE ADVOCATE WOULD SAY. — To the first observation, the Advocate responded, among other things, that it was not surprising if John, who, as the witnesses testified, behaved constantly as if he were an angel in the flesh, blushed at the remedies prescribed by the physicians, or resisted them; for it is often read in the lives of the Saints that even they endured the most severe pains, lest they appear to be seeking relief from their suffering.

[*Latin ed. p. 609*]

AT ROME. He recounted that virtue, which, according to St. Augustine, is an angelic quality: in reference to the cause of St. Philip Neri, this was noted: "Because of the ardor of his purity, even when he was ill, he suffered no part of his body to be seen by anyone; yet, no one ever dared to reproach him for disobedience." But the Orator made extensive use of his arguments to demonstrate that the fame of sanctity had arisen both from the heroic virtues of the Servant of God, and also from the fact that the incorruption of the body and the natural flow of blood could not be explained. He briefly recalled what he had already presented at length concerning the origin of the fame of sanctity; namely, that the saint had been considered holy because, in life, he had deserved the most excellent title of Angel in the flesh, due to his singular purity, his holy actions, especially his perfect conformity to the divine will, and his heroic patience in enduring the torments of illness; that he had been called no less a Saint than an Angel in the flesh, by reason of his regular observance and humility; that his conduct had led people to believe that he was a true servant of God; that others had discovered in him holy manners and religious perfection; and that in his behavior in all his actions towards everyone, he had shown himself and remained as a Religious in a holy life... truly appearing as St. Francis. After presenting other testimonies of this kind, which demonstrated that the fame of sanctity originated both before and after the death of the Servant of God, from his virtues, and which therefore provided the best possible basis, as Ceparius stated in Direct. Canoniz. I. 2 c. 2, with these words: "Those are said to die with a reputation, and with a celebrated opinion of sanctity among many, of whom the common opinion is, and the constant fame is, that,

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while they lived, they were considered holy and persevered in sanctity until death;" the Orator then recalled certain statements of the witnesses which the Promoter seemed to interpret in a different sense. However, proceeding to the points which the Promoter had affirmed, namely, the natural state of the body and the flow of blood, the Orator responded: "It may sometimes happen, by reason of the nature of the disease, that the corpse remains intact, so that, indeed, it preserves the human form, as far as it is dried out; but such a drying out, which occurs gradually, is a true corruption, as is putrefaction, by which bodies are reduced to dust."

[*Latin ed. p. 610*]

610 In Naples, they depart: and therefore, it is improperly called by the common people "incorruptibility." However, before the Most Holy Congregation of Sacred Rites, when the matter of incorruptibility is discussed, it must be demonstrated that the body has undergone no alteration, neither in color, nor in flesh, nor in bones, nor in odor. Therefore, as Zacchia states in *Ap. Bened. XIV*, *I. Ap.* 1, chapter 50, number 10, "incorruptible bodies are to be considered those in which 'this incorruptibility is perfect, so that the body does not suffer even desiccation, but, on the contrary, even the most perishable parts are preserved intact and vivid, just as if the person were still alive.'" But, the Orator added, "all these things were observed and confirmed in the precious body of John." For, when it was taken from the earth, where other bodies usually decompose within a single day due to their nature, it was found vivid, shining, with a pleasant appearance, with open eyes, and red ears, so that it seemed more like a living person than a dead one, and it emitted a sweet fragrance. These signs were also observed after three days, indeed after six, and even after eight days from death, and they were also noted after fifteen and after nineteen days, without any of his sacred limbs exhibiting any sign of alteration. Indeed, the internal organs, when examined, were found to be perfectly preserved, also emitting a pleasing odor, and so that those who beheld them were also affected with spiritual joy. When all these signs were observed by everyone, all unanimously attributed them to a divine miracle. Furthermore, Scaccho teaches in *De Notis et signis sanctorum*, section 9, chapter 3: "Among the privileges of Christ and the notes of his divine filiation, this incorruptibility is also enumerated... Therefore, from the incorruptibility of a body, a weighty and significant argument for sanctity can be drawn, leading to the effect of Beatification and Canonization." Moreover, when the Promotor stated that the natural flow of blood was to be considered, and that it was not immune to exaggeration, the Orator replied: "One hundred and one times have I sung of the wonderful flow of blood: for, on the third day after death, an autopsy of the body was performed by experts, and a marvelous, abundant, and vivid blood was observed to flow, which those present eagerly wiped away for the sake of devotion." A witness, a skilled man in the healing arts,

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having examined the surgical section in the chest of John, where the blood vessels were located, was astonished, and...

[*Latin ed. p. 611*]

IN ROME. He declares, having been moved by this, that a wondrous abundance of blood was observed, bright red, translucent, purified, and separated not only from foul-smelling substances, but also from those which are abundant in the later stages of decomposition; which he announces as a remarkable thing, since in those who have been afflicted by this disease, due to almost no movement of the internal organs, the blood easily mixes with lymph and serum, therefore, Saint John openly confessed its sanctity. Witness X, who performed a surgical examination to observe these phenomena in cadavers, judged that these could not have occurred, especially in a body so far advanced in its affliction by this disease, that is, the blood remaining vivid and bright green, and separated from the flaccid and foul-smelling parts, after three days. But even greater wonders were observed. Five days after, a marvelous blood flowed abundantly, obeying the command: a remarkable emission of blood also occurred on the fourth day after the examination, that is, the seventh day after the precious death, obeying the command, and in such a way that one hundred or more Servants of God were able to collect the blood. We read that blood remains in the body of the deceased for some hours, and even after three days; namely, from the nostrils, from the mouth, from the eyes, and from the ears, in those who have been afflicted by apoplexy, lethargy, or some suffocating disease: but we have never heard of a frozen body emitting vivid blood on the seventh and twelfth days. For in a dead person, the blood in the veins either hardens or putrefies and turns into pus, or is absorbed. Other details are added by the witnesses, which are variously recounted, for which reason Benedict XIV wrote in *De Servis Dei*, book 1, chapter 31, number 18, that if, after the departure of the soul, "a fragrance flows from the body, which is not momentary, which is sweet, which harms no one, but is pleasing to all, then this is to be attributed to a supernatural cause and is to be considered a miracle." Nor can the argument be raised against this, that the witnesses have recounted various and different things, as Chrysostom teaches: "If, in choosing miracles, not all have said the same things, but one has recounted this, and another that, let this not trouble you at all; for if each one had said everything, the number of the others would already be superfluous, or if all have said different things among themselves..."

[*Latin ed. p. 612*]

612 OF NAPLES OR ROME: "They would have written and recounted everything new, but no document of agreement could appear." See Benedict XIV, L. 3, c. 7, n. 10. After these things were explained, the Sacred

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Congregation, considering the disputed cause for its introduction, gave a response which is found in the Decree which I cited on page 544. FROM WHICH YOU MAY GATHER: I. That the incorruption or desiccation of dead bodies cannot be immediately considered as a supernatural sign, unless other accompanying circumstances concur, which cannot be attributed to natural causes. II. That such accompanying circumstances can be a long duration of time, a vivid and cheerful appearance, a copious flow of pure blood, a pleasant and constant odor, etc. III. That these things were present in the body of the Venerable Servant of God, John Baptist of Burgundy; especially, the marvelous and prolonged flow of blood, which could not introduce any shadow of doubt into the matter. IV. That, with the existence of such a posthumous sign, joined with a reputation for a holy life, the continuation of the reputation for sanctity seems less necessary for the cause being introduced, which is nothing other than a shadow that presages the foundation of sanctity. CAUSE FOR THE BEATIFICATION AND CANONIZATION OF THE VENERABLE FATHER, SERVANT OF GOD, IGNATIUS OF THE LAKE, A LAYMAN IN THE ORDER OF MINOR FRIARS OF SAINT FRANCIS, CAPUCHIN, CONCERNING A DOUBT: Does it appear that he possessed the Theological Virtues of Faith, Hope, and Charity, both towards God and towards his neighbor, as well as the Cardinal Virtues of Prudence, Justice, Fortitude, and Temperance, and their corresponding virtues, in a heroic degree, in the case and for the effect of which we are speaking?

[*Latin ed. p. 613*]

DECREE CONCERNING THE VENERATION, ETC. 618. "The Venerable Ignatius of Laconi lived before God with simplicity and innocence throughout all the days of his life. Born of a humble family in the village of Insula, in Sardinia, from which he took his surname, he began to fear God from his childhood, and did nothing childish in his actions. When he was still young, he devoted himself to the cultivation of the fields, in order to provide sustenance for himself and his father; yet he remained steadfast in the fear of God. Then, at the age of twenty, fleeing the company of men, he joined the Franciscan Friars of Capua, and was received among the laity. After his novitiate, in which he distinguished himself among all his brethren by his observance of monastic discipline, he pronounced his solemn vows; and from then on, he progressed daily from virtue to virtue, and until his death, he was a most outstanding example of sanctity. He greatly valued poverty as the prerogative of the Seraphic Order. His innocence of manners and the chastity of his life were a model to all. Burning with the fire of charity, he inviolably observed the commandments of God; and he prayed so intensely that he was frequently transported into ecstasy. Concerned for the eternal salvation of his neighbors, he zealously assisted those who were erring, so that they might return to the path of justice; he

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offered comfort and help to the poor, the sick, and the afflicted, and he was often an instrument of their salvation. He possessed such humility of spirit that, although God wished to adorn him with the highest graces and miracles, he considered himself to be the greatest of sinners among all men. Finally, weakened by old age and illness, he reached the end of his life, and, after receiving the Sacraments, he departed to the Lord on the fifth day before the Ides of May, in the year 1781. The reputation for sanctity that he had enjoyed while alive was widely spread after his death. However, the process was opened by the Bishop of Cagliari several years after his death, in order that a juridical investigation might be instituted into the fame and virtues of his Holiness. After these were recognized by the Sacred Congregation of Rites, the Most Holy Pope Pius IX, Supreme Pontiff, signed with his own hand a commission for the introduction of the cause, on the sixth day before the Ides of April, in the year 1854. Then, after the processes were completed with Apostolic authority and duly approved, investigations into the virtues of the Venerable Ignatius were instituted according to the Apostolic regulations. The first meeting was held in the preparatory session at the Convent near the Most Reverend Cardinal Nicolaus Clarelli-Paracciani, Bishop of Tusculum, Relator of the Cause, on the fifteenth day before the Ides of June, in the year 1868. The second followed in the same manner.

[*Latin ed. p. 614*]

614. Regarding the Beatification, etc., an examination was held in the Preparatory Congregation near the Vatican Basilica on the eighteenth day before January. Finally, in the general assembly before the Most Holy Lord, gathered in the same Vatican Palace on the fifth day before May of the following year, the Most Reverend Cardinal Nicolaus Clarelli-Paracciani proposed the question: "Do the theological virtues of Faith, Hope, and Charity, both towards God and towards one's neighbor; and also the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and those things attached to them, exist in a heroic degree, in the case, and to the effect, of the Venerable Ignatius of Laconi?" And all the Consultors, and the Most Reverend Fathers Cardinals, individually presented their opinions. Having heard everything, the Most Holy Lord did not immediately offer his judgment, but rather, after offering prayers, sought light and help from the Lord. Finally, to offer this judgment, the Most Holy Lord chose the day of Saint Philip Neri, the Apostle and principal patron of our city, a day celebrated with great devotion; and after offering the Holy Sacrifice in his private chapel, he went to the Church of the Holy Mary of Vallicella; and there, after being surrounded by the noble College of Cardinals, he attended the Sacred Solemnity, and in the nearby sacristy of the same church, he summoned the Most Reverend Cardinal Constantinus Patrizi, Bishop of Porto and Santa Rufina, Prefect of the Congregation of Sacred Rites, together

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with the Most Reverend Cardinal Nicolaus Clarelli-Paracciani, Bishop of Tusculanum, and Relator of the Cause, along with the Reverend Father Peter Minetti, Promoter of the Holy Faith, and myself, the undersigned Secretary; and in their presence, he duly declared: "It is established that the theological virtues of Faith, Hope, and Charity, towards God and towards one's neighbor, and the cardinal virtues of Prudence, Justice, Fortitude, and Temperance, and those things attached to them, exist in a heroic degree, in the case, and to the effect, of the Venerable Ignatius of Laconi, so that the examination of the four miracles may proceed." This decree was ordered to be published and recorded in the Acts of the Congregation of Sacred Rites on the seventh day before June of the year 1869. C. Episc. Portuensis et S. Rufinae, Cardinal Patrizi, Prefect of the Sacred Rites. (Signed) Bartolini, Secretary of the Sacred Rites.

[*Latin ed. p. 615*]

615 IX SACRED CONGREGATION OF THE INDEX. DECREE. The Sacred Congregation of the Most Eminent and Most Reverend Cardinals of the Holy Roman Church, by order of the Most Holy Lord our Pope Pius IX and the Holy Apostolic See, concerning the placing of books of pernicious doctrine on the Index, and concerning their condemnation, proscription, expurgation, and permission throughout the Christian Republic, having met in the Apostolic Palace at the Vatican on the first day of June, 4869, condemned and condemns, proscribes, and orders that the following works be referred to the Index of Prohibited Books:

* *Die Theologia des Leibniz, mit besonderer Rücksicht auf die kirchlichen Zustände der Gegenwart etc.* First Part. In Latin: *Theologia Leibnizii, quam ex omnibus editis et multis nondum editis fontibus, ratione habita praesentis Ecclesiae conditionis, nunc primum plene exposuit Dr. A. Pichler. Pars Prior. Monachii 1869.*

* *Pietro Pompazzi. Discorso letto nel Teatro Scientifico di Mantova il 17 Marzo 1869 dal Professore di Filosofia Roberto Ardigò. Mantova. Giustino Soave Editore-Librajo 1869.*

* *Riflessioni sopra la caduta del temporale Principato del Romano Pontifice, e della Corte ecclesiastica di Roma. Opera inedita di Gio. Battista Guadagnini, Arciprete di Cividate in Valcamonica. Breno 1862.*

* *La Religion par E. Vacherot de l'Institut. Paris Librairie Chamerot et Lauwereyns, 1869.*

* *Elementos de Direito Ecclesiastico Publico e Particular em relaçâo à disciplina geral da Igreja etc. - Seu, Elementa Juris Ecclesiastici publici et peculiaris juxta generalem Ecclesiae disciplinam, ratione habita ad mores Ecclesiae Brasiliensis, auctore Episcopo Fluminis Januarii (Rio Janeiro) Emma nuele Do Monte Rodrigues D' Araujo. Rio de Janeiro anno 1857,

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Donec corrigatur.*

[*Latin ed. p. 616*]

DECREE. A Compendium of Moral Theology by D. Manoel Do Monte Rodrigues de Araujo, Bishop of Rio de Janeiro, etc. Second Portuguese edition, made according to the second edition of Rio de Janeiro, corrected and annotated with the approval of the Most Reverend Lord Bishop of this Diocese. Also, Compendium Theologiae Moralis, by the Most Reverend Manoel Do Monte Rodrigues de Araujo, Bishop of Fluminis Januarii (Rio de Janeiro). – Second Lusitanian edition, based on the Brazilian edition, with additions and annotations, approved by the Portuguese Bishop. Porto, 1858, until corrected. The falsified Bibles, or two responses to the Reverend Canon Joaquim Pinto de Campo, by the Old Christian, etc. In Latin: - Biblia falsata, seu duo responsa data ad Dominum Canonicum Joachimum Pinto de Campo a Christiano Seniore. - Recite, 1867 (Decree, S. O. feria IV, 9 Iunii 1869). Therefore, no one of any rank or condition may dare to publish, or after publication to read or retain, the aforementioned works, in any place or language, but must deliver them to the Ordinaries of the places, or to Inquisitors of heretical perversity, under the penalties indicated in the Index of Prohibited Books. These [documents] were approved by the Most Holy Lord Pope Pius IX, through the undersigned S. I. C. from the Secret reports, and He commanded that they be promulgated. In whose faith, etc. Given in Rome on the 42nd day of June, 1869. ANTONINUS Cardinal DE LUCA, Prefect of the F. R. ANGELUS VINCENTIUS MODENA, Order of S. Ind. Congregation of the Predication, from the Secret. [Seal]. On the 1st day of June, 1869, the aforementioned Decree was affixed and published at S. Mariae super Minervam, at the Basilica of the Prince of the Apostles, the Palace of S. Office, the Curia Innocentiana doors, and in other customary places in the city, by me, Aloysius Serafini, Apostolic Secretary. Philippus Ossani, Major Curator.

[*Latin ed. p. 617*]

617 FROM THE APOSTOLIC PENITENTIARY. On the occasion of the Jubilee proclaimed on the 4th of April, 1869, the following questions were proposed to the Apostolic Penitentiary. "Does the Jubilee also include the power to absolve penitents from heresy (1)?" Answer: Affirmative, provided they first abjure, and retract their errors, as is fitting according to law. "And if, during the Jubilee, someone who had already been absolved by means of it from censures and reserved cases, should again fall into reserved cases and censures, can he be absolved a second time by performing again the prescribed works (2)?" Answer: Negative. "Can someone who has already obtained the Indulgence of the Jubilee obtain it again, provided they repeat the prescribed works (3)?" Answer: Affirmative. "Can confessors use extraordinary faculties towards someone who requests to

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be absolved and dispensed, but who does not have the will to perform the prescribed works and to gain the Jubilee (4)?" Answer: Negative. "Given in Rome, in the Holy Penitentiary, on the 1st of June, 1869." By Anthony Mary Cardinal Panebianco, Major Penitentiary. L. Can. P. Cirano, Secretary of the Holy Penitentiary.

(1) Latin version: "Does the power to absolve the penitent from heresy belong among the faculties granted for the Jubilee?"

(2) "During the Jubilee, can he who has been absolved by means of the same Jubilee from censures and reserved cases, if he falls again into reserved cases and censures, be absolved a second time by performing again the prescribed works?"

(3) "Can he who has already obtained the Indulgence of the Jubilee obtain it again, if he repeats the prescribed works?" Compare, if it pleases, what we have presented in Volume I, page 146 and following.

(4) "Can confessors use extraordinary faculties towards him who requests to be absolved and dispensed, and who nevertheless does not have the will to perform the prescribed works and to gain the Jubilee?"

[*Latin ed. p. 618*]

618 APPENDIX XVI. ON THE EXTENT OF INFALLIBILITY. CERTAIN THESES AND QUESTIONS SUBMITTED TO THE JUDGMENT OF THEOLOGIANS BY WILLIAM GEORGE WARD, D.D. Under this title, a most excellent treatise, carefully composed, has been published in London and widely circulated, by the renowned William Ward, Doctor of Philosophy. The name of the author, a layman, who, many years ago, seems to have returned to the bosom of the Catholic Church, not only as a son, but also as a defender of Catholic doctrine, is well known, especially among all learned men who speak the English language. He himself is the author and director of that very useful work, which is published every four years under the title: *The Dublin Review*. In his learned writings and in the questions he discusses, what seems to us particularly noteworthy is the most accurate logical connection of ideas; something which, indeed, is often lacking even among scholars in our time; although perhaps nothing is more frequently heard and written about than the word "logic," as if the very utterance of the name would guarantee the reality of the thing. We also know that the author humbly presented this work to the Holy Father and received a letter from Him, in which He bestowed the Apostolic Blessing and deigned to encourage the author and the other writers of the *Dublin Review* to continue such noble endeavors. Since this treatise, submitted to the judgment of theologians, contains questions that are currently being debated, namely, concerning the divine rights conferred upon the Roman Pontiff and the Apostolic See, we, in deference to the author's modesty, present them in their entirety to the judgment of our readers, especially since the argument upon which they are based is perfectly suited to the

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arguments of our publication. It seems incredible that, while the infallibility of the Church or the Roman Pontiff is admitted in matters of revealed truth, which strictly pertain to the deposit of faith, the extension of that infallibility should be denied in philosophical, social, etc., matters which are associated with the deposit of faith in some way. As if the Divine Spirit, who, through His assistance, makes both the Church and the Roman Pontiff infallible in declaring truths strictly revealed, would not be present, I say, when the Church or the Roman Pontiff speaks *ex cathedra* in rendering judgment on the extension of that very infallibility. Indeed, the prerogative of infallibility of the Church pertains to the truth which is strictly contained in the deposit of faith; therefore, those who infallibly judge concerning the strict meaning of revealed truths will infallibly judge concerning the extension of this prerogative. Therefore, the treatise is to be commended, as it stands.

[*Latin ed. p. 619*]

619 PREFACE: In this our age, Catholics who refuse to abandon the errors condemned by the Pontiff, speak more about the *object* of infallibility than about the *subject*. Their objections do not arise from the fact that the Pope cannot infallibly teach without the consent of the Bishops; but rather from the fact that the very body of Bishops, united with the Head, infallibly teaches (but not, as some claim, only in matters strictly theological and dogmatic). The causes of this are quite obvious and easily remembered. Firstly, the Bishops today so unanimously acknowledge the Pope's infallibility when speaking *ex cathedra*, that they readily obey all of his definitions. Consequently, the doctrines called "Gallican," do not, in fact, offer any freedom whatsoever to deviate from any papal definition; for whatever the Pope teaches, the Bishops teach the same, without delay. Secondly, it is often the fault of Catholics who are troubled that they are, to a greater or lesser extent, tainted by the stain of indifferentism, and that they freely turn their minds to philosophical, political, and historical questions, without any regard for those revealed truths with which these questions are often so closely connected. Hence, they readily accept whatever is decided within the strictly dogmatic sphere of the Church, since they care for and think about nothing theological; yet they receive with the most grievous displeasure any decision that is promulgated concerning political, social, or philosophical matters. Therefore, it is not surprising that they eagerly seize upon any pretext, by means of which, without openly and in every way betraying the Catholic name, they may deviate from such decisions. Thus, they openly proclaim that, in those papal declarations which are not strictly dogmatic, external obedience is due, but not internal assent.

It is of no small importance that we consider what follows from this opinion. Almost all non-Catholics, and even more than is desirable among Catholics themselves, freely wander in philosophical, historical, and polit-

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ical questions, without any regard for those revealed truths with which these questions are often so closely connected. These men, as is evident, fall into various grave errors, which are, in their primary and immediate subject matter, philosophical, political, or historical; but secondarily, and by extension, pertain entirely to the matter of faith and morals. By means of such errors, the Deposit of Faith is no less attacked and dangers are presented to the faithful, than by errors that are directly and proximately theological.

[*Latin ed. p. 620*]

620 APPENDIX XVI. The Deposit of Faith is often attacked, and that by dangers which are far more serious than those posed by these errors, because the former are more subtle and hidden. "For books which openly contain false and evil doctrine deceive only those who are willing to be deceived, or perhaps those who are completely ignorant; but those who conceal hidden things deceive even the more prudent." Therefore, it often happens that those who are more pernicious, and whose poison penetrates more deeply, are those whose corruption is not openly apparent, from whose reading the faithful are warned for the sake of their salvation (I). Therefore, that opinion is most dangerous to the faith, which denies the infallibility of the Church in judging matters of this kind. Furthermore, especially in this time, as we have already said, those who are guided by a worldly or unteachable spirit are usually concerned with, and think about, nothing at all regarding strictly dogmatic matters. And thus we arrive at a conclusion, which, as it seems to me, should be kept before the eyes of modern theologians. The spirit of error, of worldly desires, of intellectual rebellion – that spirit from which so many heresies and so many dogmatic errors have sprung forth in past ages – manifests itself differently in this our age. That wicked spirit, in this our age, manifests itself far less in matters directly theological, than in matters of primary philosophy, politics, and history, which are nevertheless most closely connected with the Deposit of Faith. We are, however, led to the same conclusion by a completely different path. That most famous Syllabus, published by the order of Pope Pius IX, contains the principal errors of our age (2). But, as will immediately become clear to anyone who reads it, very few of these errors are strictly theological. Even those opinions concerning Christian Marriage, which are condemned in the eighth chapter, are defended by their proponents largely because they are connected, not so much with theological principles, as with political ones; that is, because they lead to certain political consequences, subversive of ecclesiastical authority. And the same (with necessary modifications) can be said of other theological errors condemned in the Syllabus. But if this is the case, then it is a very advantageous, and especially in this time, a most advantageous opinion, which seeks to restrict the infallibility and authority of the Church in teaching to matters strictly and primarily

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theological. For such an opinion would leave the Church powerless and defenseless against those very errors which are today the most widespread, and the most dangerous.

(1) These words, written by another author, are quoted by Dr. Murray, *De Ecclesia*, d. 17, n. 53.

(2) The Syllabus contains the principal errors of our age, which are noted in Consistorial Allocutions, Encyclicals, and other Apostolic Letters of Our Most Holy Pope Pius IX. Indeed, in the Encyclical *Quanta cura*, the same Pope declares that the errors, which He has condemned in His Allocutions and Apostolic Letters, are simply the principal errors of our most unhappy age.

[*Latin ed. p. 621*]

APPENDIX xvi. Concerning a most perilous proposition: "utterly vain" and ineffective would be that authority (granted to safeguard "the deposit of faith of the Church") if it did not encompass all things that in any way truly endanger faith and morals. For then the Church would have authority, indeed, the most serious mandate of God, a goal to be pursued, without the use of means absolutely necessary to achieve that goal (1). "Therefore, it is of great importance that some argument be drawn from theological principles against this exceedingly harmful opinion. And if the matter under consideration is to be fully elucidated, another question must be approached. While I remain silent concerning other Pontiffs, at least Pope Pius IX (according to his own testimony) did not condemn the errors of which we have spoken through Dogmatic Bulls, but through numerous Encyclicals published for the public, and Allocutions given in Consistory, and other Apostolic Letters. However, not all Allocutions, not all Apostolic Letters, not even all Encyclicals, contain definitions promulgated from the chair of Peter. Therefore, it is necessary to examine these Allocutions and Apostolic Letters, so that it may be sufficiently determined in which of them the Pope is considered to speak ex cathedra, and what he is considered to teach ex cathedra. Indeed, the more what I have said may seem pleasing to a benevolent reader, the more I may perhaps appear to have spoken against myself. For how, someone will ask, can I, a mere layman, have dared to discuss such grave theological matters? Therefore, let me say a few things about myself. The "Revision" department, as it is called by the Dublin Review, has been entrusted to me by ecclesiastical superiors for six years. And for this purpose, above all, I have striven to follow the civil authority of the Pope, concerning freedom of conscience, of worship, of books, and all philosophical matters, which have been approved by the Church, and to refute, as far as my ability allows, those that contradict them. There are some Catholics in England who restrict the infallibility and authority of the Church in teaching to only definitions of faith: others, far more numerous, who, at least in philosophical matters, diminish the

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judgment of the Church: and still others, very numerous—and sometimes distinguished by piety—who not only openly deny infallibility, e.g., the Encyclical *Mirari vos*, but also knowingly contradict the doctrine contained therein; especially because it concerns political rather than theological doctrines. When I consulted the works of theologians, in order to draw weapons from their treasures to overthrow these errors, I saw that even the most serious theologians (as far as they were able to find) did not explain these matters so explicitly, or at least not so..."

[*Latin ed. p. 622*]

622 APPENDIX XVI. that I might fully treat of the matter, so that we might entirely satisfy the objections of the present day based on their writings (1). Therefore, nothing remained except that I should attempt to apply the ancient principles to new circumstances, and to write theologically, as far as my abilities allowed, on so important a subject. And I did not refuse to undertake this, even though I am a layman, because I am not entirely a stranger to theology; for I was once a priest in the Anglican sect, and for many years I have not entirely superficially engaged with theological matters. Moreover, what is most important, three priests were appointed by my ordinary (the Archbishop of Westminster) as theological censors, and they examined everything that is presented in the Dublin Review. From this, a certain theological controversy arose. Indeed, some believed that I had extended, beyond just limits, both the infallibility of the Pope, and also the obligation that binds all Catholics to firmly subject their understanding to certain decisions which are not strictly infallible (e.g., doctrinal decisions of the Roman Congregations). I do not adhere immovably to my opinions; but I desire nothing more than that they may be corrected by the judgment of theologians. Therefore, what I had written in English was, as far as possible, translated into a brief Latin summary, so that it might be more easily read and examined by theologians (2). I earnestly urge them, that, after rightly reprehending my errors, whatever they may be, they may wish to present the Church's perfect and sincere doctrine on the matter I have treated, in full light.

PRELIMINARY NOTES: In order that the whole matter may be more clear, we will here recall certain principles which are assumed as certain in what follows.

1. Whatever infallibility the Teaching Church possesses, the Pope possesses the same. So also, many and weighty theologians.

2. However, those words, "infallible," "infallibly," or other precisely equivalent terms, are rarely, and scarcely ever, found in papal pronouncements. The canons of Trent themselves—the definition of the Immaculate Conception itself—are not called "infallible" in those very words by the Church.

3. With regard to the Pope's infallibility, it pertains to him that he should

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not claim for himself, in practice, any greater infallibility than he truly possesses. "It is by the very fact (says Bouix, *de Papa*, vol. 2, p. 236) that he defines something, and commands that it be believed, that he simultaneously defines and commands that it be believed" (1). At the time of which I speak, Doctor Murray's volume iii on the Church had not yet appeared (2). One certain opinion, which I have often put forward, I now, being better informed, retract: see the note at p. 632. Also, see the first and second questions.

[*Latin ed. p. 623*]

APPENDIX XYI. "Concerning its competence in matters of definition." "Therefore, if we wish to know the extent of the Pope's infallibility, we must seek no further than to know the extent to which the Pope claims competence for himself. 4. In any decrees by which the Pope obliges the faithful to give internal and absolutely complete assent, he teaches and proposes the infallibility of those decrees in practice. 5. Therefore, the Pope is infallible in all those definitions to which he wishes to obligate all the faithful to give absolutely complete and internal assent. 6. The Pope never speaks strictly infallibly, except when he speaks, as they say, *ex cathedra*; that is, when he speaks as the Universal Doctor, by Apostolic authority, for teaching. If it is established that he wishes to obligate all the faithful to give absolutely complete assent, it follows, as we have already said, that he speaks infallibly, and therefore *ex cathedra*. Conversely, if it is established that he speaks *ex cathedra*, it follows that he wishes to obligate the faithful to give absolutely complete assent. These principles are easily accepted by all, except for a few that relate to Gallicanism. However, I hope that even the Gallicans will agree with the following propositions to the greatest extent possible, if in any case they wish to assume that the voice of the Pope has been joined by the agreement of the Bishops. In this place, it will also be useful to state a certain definition. The Deposit of Faith comprises all and only those truths which have been immediately revealed by God and immediately handed down to the Church by the Apostles.

THESIS I. The Church is infallible, not only when it anathematizes certain propositions as heretical, but also when it restricts them by a lesser censure: when, for example, it prohibits them, as erroneous, bordering on heresy, false, scandalous, rash, etc., etc. There are weighty and very weighty authors who, while directly considering a quite different question, seem to restrict infallibility to those things actually contained in the Deposit of Faith. But these very authors, when they more clearly explain their thought, manifestly show that they do not mean anything of the kind. Murray, for example, does not hesitate to affirm (De Ecclesia, d. 17, n. 63) that the opinion to which our thesis is opposed "even to this day" has a serious and well-established theologian who supports it. The first and most direct proof of this thesis is that the Church is infallible

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in its entire magisterium. "The Church," says Perrone, "fulfills the office of a teacher... in its daily ministry, by which it instructs the faithful in all things that are conducive to their being informed by sound doctrine and morals, and leads them, as it were, by the hand, to take the path to eternal salvation." To this, the Carmelites contend that Christ instructed His Church in its infallibility (De Locis, n. 34-7). Whenever the Church condemns propositions as erroneous, or bordering on heresy, or deserving of some other censure, it does nothing other than, as we may use the words of Father Perrone, "instruct the faithful in all things that are conducive to their being informed by sound doctrine and morals." These censures, as included in the very magisterium of the Church, are undoubtedly infallible. The second and most invincible argument for this thesis is derived from those Bulls...

[*Latin ed. p. 624*]

624 APPEN! i xvi. Concerning the most excellent Unigenitus and the Author of the Faith. In those Bulls, numerous doctrinal notes and various propositions are included: and in both, the Pontiff, by a perpetual and binding Constitution, explicitly and in these very words imposes a strict precept upon all Catholics, that they should not think differently about the propositions condemned than as declared in the Bull. THESIS: "In all things, concerning those definitions," the Pontiff is infallible, and he desires to obligate all the faithful to assent to them with the most interior and absolute agreement. See principle 5 (p. 623). Therefore, the Pontiff can undoubtedly pronounce these lesser censures infallibly.

II. The infallibility of the Church is not limited to those things which are actually or virtually contained in the Deposit of Faith, but extends more broadly. It applies to all those truths which the Church can judge to be connected with the Deposit of Faith in such a way that, unless Catholics firmly hold them, the Deposit itself may not be preserved and safeguarded in its fullness, or may be less well preserved and safeguarded. There is not one single kind of truth that is virtually revealed. There is a certain truth that is virtually deduced from two revealed principles. There is another, which is inferred by law from one revealed principle and one naturally known principle. Finally, there may be another, which is deduced from either of the two preceding ones through a further logical process. There are Catholics who extend the infallibility of the Church to these virtually revealed truths, but also restrict it. However, it must be considered certain by every Catholic that the Church can infallibly determine even those truths which are neither actually nor virtually revealed; but which are judged by the Church to be necessary or useful for protecting the Deposit of Faith. We can call these protective truths; and this is what is discussed in this thesis. We will now give some examples of these protective truths, through which it will become sufficiently clear that this second thesis cannot be

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legitimately questioned by any Catholic.

1. The first example is a certain dogmatic fact, such as, for example, the objective manifestation of Jansenius's sentiments in his book. Here is a proposition that is certainly infallible: "Five certain assertions are contained in Jansenius's book, according to the legitimate and objective meaning of that book." It cannot be said that this proposition (before it was determined by the Church) could have been logically deduced from any revealed principle. No chain of syllogisms can be constructed to demonstrate this proposition, which would contain a revealed dogma, such as even one premise of a syllogism. Therefore, this proposition is a protective truth, not virtually revealed. Nevertheless, no Catholic in our time would dare to deny that the Church was infallible in declaring it.

2. Next, consider the power that the Church has claimed for itself in all ages, to judge infallibly not only about doctrines, but also about the persons of heretics. Not only Arianism, Nestorianism, and Eutychianism have been condemned, but also Arius, Nestorius, and Eutyches. The Church does not judge about internal matters; however, she has often obligated the faithful to hold not only that certain opinions are heretical, but also that a certain man is, so to speak, objectively a heretic; that a certain man has shown himself to be a heretic in his external manifestations. The following proposition—along with many similar ones—is infallible:

[*Latin ed. p. 625*]

APPENDIX: It has been freely taught by the Church: "That the doctrine which is now called 'Arian' did not, in truth, teach what the Arian doctrine now claims to teach." However, this proposition is merely protective; nor could it, before Arianism was condemned, be deduced from any revealed principle through any logical process.

3. Let us take a third example from what I shall call "ecclesiastical" expressions. "The Church has the right to establish and, as it were, consecrate certain terms, so that they are, and are understood to be, perfectly and most fittingly suited to signify a particular dogma; this is evident from her practice. And it is evident that she is infallible in establishing such terms, because otherwise she could err in teaching and preserving the faith; for in establishing them, she intends to teach the faith and to preserve it in a purer and more secure manner." Murray, *De Ecclesia*, d. 17, n. 402. Therefore, consider the following proposition: "The term 'homoousios' most aptly expresses the very dogma concerning the nature of the Son of God, which all Catholics acknowledge." This proposition (before the Church used that term) could not be derived from any revealed principle. However, in a proposition of this kind, the Church is to be considered infallible.

4. The same conclusion is derived from various propositions which the Popes have repeatedly and infallibly condemned. For example, Pius VI teaches, in the Constitution *Auctorem Fidei*, that Clement IX did not re-

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store peace to the Church by approving the distinction between law and fact (prop. 13); nor did he promote the most holy men and doctors who have greatly benefited the Catholic religion by cultivating scholasticism (prop. 76). And many such papal declarations could easily be cited. Furthermore, the following words of Pius IX, from the Constitution *Gravissimas*, which Murray appropriately cites (de Ecclesia, d. 17, n. 42), wonderfully establish this point: "The Church, having been endowed by her Divine Author with power, has not only the right, but also the duty, especially to condemn and to anathematize all errors, if the integrity of the faith and the salvation of souls so demand. On the contrary, she condemns as erroneous any opinion that is contrary to the faith and harmful to the authority of the Church." Therefore, all errors can be infallibly condemned by the Church, if the integrity of the faith and the salvation of souls require it. This is the very thesis that we are defending. Finally, according to that common definition of theological censure, which, as P. Perrone testifies, "is commonly given" (de Virt. Theol., part 1, n. 300), a proposition can be noted for censure if it is "in some way harmful to the faith." Therefore, according to the common opinion of theologians, not only propositions that are contrary to the faith in any way can be condemned, but also those that are harmful to the faith. Here, for the sake of greater clarity, two observations may be made. The first is merely a matter of speaking. For these protective truths, even before they are declared by the Church, some may perhaps call them virtually revealed. Whatever may be said about this, it is certain that these truths, before the declaration of the Church, could not have been logically deduced from any revealed principle. However, after the declaration of the Church, these truths are undoubtedly and legitimately called virtually revealed. One example will suffice for all. "The Church is infallible in all those propositions which she wishes to obligate all the faithful to hold absolutely": this is a revealed principle. "The five assertions in Jansenius' book are truly contained in the proposition to which the Church wishes to obligate all the faithful to hold absolutely": this is a naturally known principle.

[*Latin ed. p. 626*]

626 APPENDIX. The following is appended, wherein are shown five assertions which are truly contained in Jansenius' book. Therefore, this truth—from which the Church declared that error—is virtually revealed.

THIRD. Many truths, which are primarily not theological, but philosophical, political, historical, or physical, are nevertheless connected with revealed truths, so that their declaration is most useful, and sometimes even necessary, for the proper safeguarding of the Deposit of Faith. The Church can infallibly declare these truths. This thesis seems to require no further proof, except that which is contained in the preceding statements. However, in order that the matter may be well understood, it is necessary to avoid both Scilla and Charybdis. Firstly, the Church teaches nothing except

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for the sake of the Deposit of Faith. It cares for theological matters for their own sake; for other matters, it cares only insofar as they are connected with theological matters. It is conceivable, for example, that a certain philosophical system is not in accordance with reason or experience; and yet, it may not harm the Deposit of Faith. The Church could not condemn such a system. Or, to put it another way, if the Church condemns certain philosophical, political, or physical opinions, it thereby declares that those opinions are not compatible with the Faith. Nevertheless, what is theologically false cannot be philosophically true. Therefore, if a certain philosophical opinion is subjected to some theological censure which declares its falsity, then the falsity of that opinion must be accepted as certain in the treatment of that philosophy. Therefore, although the Church does not teach the human sciences from their own principles, it can nevertheless wonderfully promote and aid them.

FOURTH. When the Church declares certain truths that are connected with the Deposit, it thereby pronounces that those truths are contained in matters of faith and morals. Martin V. called those decrees, which were promulgated against Wycliffe, as many determinations, conclusions, and decrees in matters of faith: and the Council of Constance itself speaks of them as determinations in matters of faith. Indeed, among the propositions condemned by Wycliffe, one finds these: Universities, studies, colleges, etc., are vain things introduced by paganism: they are useful to the Church only insofar as the devil allows it (proposition 29). Decretal letters are apocryphal, and they lead away from the faith of Christ: and clerics are foolish who study them (proposition 38). These propositions were neither immediately revealed, nor could they be logically deduced from revealed truths; and yet, according to the testimony of the Pope and the Council, they are contained in matters of faith. Therefore, the truths which the Church declares for the sake of protecting the Deposit, are thereby considered to be contained in matters of faith and morals. From this, a consequence of some importance is derived. When this or that theologian restricts infallibility to "matters of faith and morals," we cannot infer that that theologian intended to suggest that the Church might doubt its infallibility in declaring truths that are protective of the Deposit. Here, we will briefly mention another way of speaking.

[*Latin ed. p. 627*]

627 APPENDIX XVI. It is customary for theologians (and perhaps even for the Popes themselves; thus we shall speak in this manner) to refer to all kinds of propositions – philosophy, history, politics, physics – as doctrines, meaning only those truths which have been revealed by God; while those which are not so revealed are called, insofar as they relate to or can be related to the Deposit of Faith, doctrines.

THESIS FIFTH. The Church does not infrequently teach infallibly not

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only when it defines or rejects a particular proposition; but also when it promulgates an exposition of Catholic doctrine (sometimes at length, and sometimes rhetorically). Among the many such expositions that exist, I will present a few. I. The Letter of Pope Leo, addressed to Flavian, is considered by no theologian to be an infallible rule of faith; although the Gallicans, according to their principles, deny that it was infallible until the consent of the Bishops was added. But after that consent, as Bossuet says, this letter "has been proposed as the most perfect and certain rule of faith, and one that cannot be retracted." Indeed, in that letter, the Pope neither affirms nor rejects any defined propositions; rather, he is entirely engaged in a thorough and accurate exposition of a Catholic dogma. II. Certain Ecumenical Councils have issued definitions not in the form of propositions, such as the anathemas of St. Cyril; but in the form of a broad and extensive exposition. Thus, for example, the Council of Trent. 3. Furthermore, the Council of Trent teaches not only through canons, but also through chapters which are themselves expositions of Catholic doctrine. These chapters are no less infallible than the canons themselves, as is clearly evident from the words of the Council. In the sixth session, for example, the Fathers declared: "The Most Holy Tridentine Council intends to expound to all the faithful the true and sound doctrine of justification itself, strictly forbidding anyone henceforth to dare to believe, preach, or teach otherwise than as is established and declared in the present decree." Immediately following is the first chapter: "First, the Holy Council declares, etc., etc." There are sixteen such chapters; and after them, the Fathers of Trent continue: "After this Catholic doctrine on justification, which if each person does not faithfully and firmly embrace, he will not be justified, it seemed good to the Holy Council to append these canons, so that all may know not only what they must hold and follow, but also what they must avoid and shun." Therefore, the chapters teach what a Catholic must hold and follow, while the canons teach what he must avoid and shun; and all Catholics are commanded to receive both the chapters and the canons faithfully and firmly (1). In all these determinations, as we have said so often, the Church is infallible, and she desires to obligate all the faithful to adhere to them with complete and absolute assent. However, it does not follow from this (as we note in passing) that a heretic is guilty of heresy if he knowingly disagrees with the doctrine expounded in the Tridentine Chapters, but only that he is sinning mortally against the virtue of faith. 4. That most famous Bull, Suarez calls "a definition" of the Pope, by common consent of the Church.

(1) See Murray, de Ecclesia, d 17 nn. 277—8.

[*Latin ed. p. 628*]

APPENDIX XIV. "The Church receives and approves." (De Fide, d. 20, s. 3, n. 22.) This Bull is nothing more than a lengthy exposition of Catholic doctrine concerning the mutual relations between the priesthood and the

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temporal authority. Certain other examples will be presented in the following sections; but what we have said is sufficient for our purpose. Therefore, it can happen, and it often does, that an exposition of Catholic doctrine is issued by the Pope *ex cathedra*. Conversely, it is undeniable that the Popes repeatedly offer various doctrinal expositions that do not proceed *ex cathedra* and are not strictly infallible. Therefore, it is important that we know which of these expositions are to be considered infallible, and in what respect they are infallible. This question, as far as we can see, has not been sufficiently clarified by theologians; or they have not sufficiently considered it; or they have not deemed it entirely appropriate to investigate it thoroughly. In this matter, we see certain things as more certain, and others as less certain; and we will begin with what seems certain.

THESIS SIX. Not all of the Pope's doctrinal expositions proceed *ex cathedra*. Sometimes he speaks not in order to teach the Church, but in order to admonish a particular individual or a particular Church on doctrinal matters. Such expositions, although they enjoy great authority, are not to be considered entirely infallible. For the Pope is entrusted with the office, not only of teaching, but also of governing and directing the Church. Moreover, it pertains most closely to the Governor of the Church to warn Catholics and particular Churches about errors in doctrine, and to lead them back to the fullness of truth. He also performs a doctrinal function, so to speak, when he instructs, for example, those recently converted to the faith, as if in a catechism on Catholic doctrine; which Pope Eugene IV. did in his instruction to the Armenians. The Governor also performs a doctrinal function when he writes to Bishops or even to private Catholics who have asked him for his opinion. "For the Popes often respond to questions from this or that Bishop," explaining their opinion on the matters proposed, "not in order to pronounce a judgment by which the faithful are to be obligated to believe" (1). An example of this is the response of Nicholas I. to the Bulgarians. These are papal pronouncements, but not *ex cathedra*; they come from the Pope as Pope, but not as the Universal Doctor. "All of these," says P. Perrone, "because of the supreme authority from which they derive, should always be held in high esteem and received with the obedience and veneration due; nevertheless, they do not constitute a definition *ex cathedra*" (2). In the Monothelite controversy, Honorius wrote his letters to Sergius, as the Doctrinal Governor of the Church. He acted so wrongly in this office that, after his death, he was rightly anathematized by St. Leo II, not as a heretic: may it be far from us!—but as a supporter, confirmer, and accomplice of heretics in their crime. He did not promulgate any decree *ex cathedra*; indeed, it is abundantly clear from his letters that Honorius himself was entirely foreign to the Monothelite heresy. Nevertheless, he did not fully understand the significance and gravity of the issue; and he warned the Eastern Patriarchs to refrain from using that term, "two operations."

(1) Canna de locis 1. 6 c. 8 ad 7.

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(2) De Locis, u. 725 in nota 2.

[*Latin ed. p. 629*]

APPENDIX XVI. Those who abstain from certain things do so, which, however, is only fitting for the Catholic truth, both to declare and to preserve it. It is, however, most certain that I have not taught from the chair anything concerning the inappropriateness of that word.

SEVENTH. In expositions of doctrine that proceed from the chair, not all are infallible, but only those which are an integral part of the definition itself. The preambles of Apostolic Acts, for example, or arguments presented for proof, are usually not intended by the Pope to be presented as infallibly true. And other things, said incidentally, are often repeated in any such Act, which are uttered by the Pope in order to exhortations, advice, etc., etc., but do not express an integral part of the truth that is defined by him. In the very Ecumenical Councils, it is the definition that is defined alone. The rest contained in the Acts usually enjoy authority, but the assistance of the Holy Spirit is not promised for them, so that they are infallibly true. The same principle, as is evident, must be held absolutely regarding the pronouncements of the Pope from the chair. The practical consequence that flows from this thesis is excellently developed by Tanner in his own manner: "If the Pope issues any decree as Pastor of the Church in matters of faith, it will be diligently judged, according to the circumstances (namely, the occasion of writing, the purpose intended, the words of the decree), what the Pope intends to teach or determine directly. For those things which are merely for the proof and confirmation of that matter, or which are said incidentally and only incidentally, do not fall under the definition; nor is the Church considered to be obliged to believe them. " – *De Fide*, n. 26.

OCTAVA. Gregory XV, in his Encyclical, *Mirari vos*, undoubtedly promulgated from the chair. In the Encyclical, *Singulari nos*, which that Pope later sent to all the Bishops of the Church (on June 23, 1834), he expressly testified this: "In our Encyclicals, both – namely, *Mirari vos* – given on August 15, 1832, we have declared the sound and uniquely acceptable doctrine concerning the topics presented therein, for the benefit of our Catholic flock throughout the world." Soon after, Gregory XVI speaks of that doctrine, concerning both the duties owed to authorities, and the contagion of dangerous indifference to be avoided by the people, and concerning the restraints to be placed on the licentiousness of opinions and speeches, and finally, concerning the most terrible abandonment of all freedom of conscience and the most pernicious societies or cults of any false religion, which are entrusted to the detriment of the sacred and public good, we have defined, by the authority entrusted to us. Therefore, testifying himself in the Encyclical, *Mirari vos*, for the sake of his office and for the authority entrusted to him, he defined the Catholic doctrine, which alone is fitting to

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be followed. It is absolutely impossible to express more clearly the obligation of absolute and interior assent, to which all Catholics are bound. In all those determinations, as we have so often argued, the Supreme Pontiff is infallible.

[*Latin ed. p. 630*]

630 APPENDIX XVI, that all the faithful may be obligated to hold fast to it. Indeed, the entire history of the promulgation of this Encyclical clearly demonstrates that the Pope issued it as an infallible rule of faith.

1. On February 3, 1832, Lamenne and his associates presented a certain petition to Gregory XVI. In this petition, they spoke as follows (1): "O Father, deign to consider those among your servants who, without any semblance of rebellion against your infallible and benevolent authority, harbor certain doubts. If even one of their thoughts is contrary to yours, they reject it and swear (2)." Furthermore, on August 16, Cardinal Pacca delivered a letter to Lamenne, written at the Pope's command. In this letter, he explicitly stated that the Pope had finally accomplished what Lamenne had long requested. He then continued with these words: "His Holiness could not, to a lesser extent, decline to pronounce judgment, since the episcopate from all sides has implored this Apostolic See to obtain from the infallible mouth of Peter's successor a solemn decision on your doctrines (3)." Thus, the Pope, speaking through Cardinal Pacca, openly acknowledged that he had, in rendering judgment, assented to both the wishes of the episcopate and to Lamenne himself. What, then, were these wishes? Namely, that the Pope should pronounce an infallible judgment.

2. On May 8, 1833, Gregory XVI wrote to the Archbishop of Toulouse. He said, "Your letters have been brought to our attention, in which you express concerns that have long weighed upon you, so that, according to the custom and practice of this Holy See, we may instruct all the children of the Church appropriately about that most grievous matter." Remembering also the warning of our predecessor, Leo the Great, that the steadfastness of the Church should be under him whose faith refutes all errors, we understand that it has been especially entrusted to us to devote all our efforts to those causes in which the salvation of the entire Church may be endangered. We are doing this, with God's help and under the protection of the most holy Virgin, and we are confidently proceeding, having given to the bishops of the Catholic world, on the very day of the solemn Assumption, Encyclical Letters in which we have set forth the sound and uniquely correct doctrine in accordance with the duties of our office (p. 360)." Thus, the Pope testifies that, in that Encyclical, he declared that he was the successor to Peter in the matter of infallibility; that he issued it to teach all Catholics the sound doctrine; and finally, that this doctrine is the one that alone is permissible to follow.

3. Similarly, on October 5 of the same year, Gregory XVI wrote to the

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Bishop of Rennes. He stated that Lamenne had not yet made it manifest to the Catholic world that he firmly and seriously held and professed the sound doctrine proposed in the Encyclical. He stated that the aforementioned man did indeed revere the supreme authority of the Pope, but had not yet submitted to the judgment and doctrines transmitted by him. Finally, he explained what he required of Lamenne: namely, that he confirm that he would follow the doctrine transmitted in the Encyclical "uniquely and absolutely," and that he would write or pronounce nothing that was contrary to it.

4. Finally, on November 28 of the same year, Cardinal Pacca wrote another letter to Lamenne, at the Pope's command: in which he was greatly saddened that Lamenne had not fully submitted to "the infallible words of Peter" (pp. 184-6).

(1) These testimonies are taken from Lamenne's work, entitled "Affaires de Rome," by Cailleux and Cie., Paris, 1866-7.

(2) We have translated the French words into Latin.

(3) P. 130. Here too, we have translated the French words into Latin.

[*Latin ed. p. 631*]

It is truly remarkable how many and what varied ways the infallibility of this Encyclical is testified to by its very author, Gregory XVI. In the entire history of the Church, I believe, no Pontifical Act can be found for which such irrefutable evidence exists, that the Pope issued it with the intention of obliging all the faithful to give absolute assent. From this thesis, many consequences flow, which will be mentioned in the following. It is sufficient here to note that no Pope has ever used a more forceful and rhetorical style of speaking than in this Encyclical. The proposition that "liberty of conscience" must be asserted and defended is condemned as a most pestilent error, and rather a delusion than a mere erroneous opinion. The present "liberty" of the printing trade is declared to be most detestable, and never sufficiently reprehensible and abominable. Therefore, it is clear that a determination of some kind can proceed from the Chair of Peter, even if, through the most vehement and rhetorical expressions of Gregory XVI, it is conveyed. From these rhetorical and vehement words, some have seized the opportunity to deny the infallibility of the Encyclical. Some have cried out that such a thing would be too cruel, if the Encyclical were to be considered to be from the Chair; and that, even in that cloud and fog of words, no one could know to whom a precise internal assent was due. But, I believe, this objection can easily be met. In the Holy Scriptures, all Catholics attribute far greater pervasiveness (so to speak) than to any doctrinal exposition promulgated by the Church: for in the Holy Scriptures, there are no idle words; and the arguments themselves are infallibly true. The words of St. Peter and Jude (see 2 Peter II. 19, Jude v. 10-16) are sometimes no less forceful than the words of Gregory XVI. St. Paul also abounds in rhetori-

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cal passages. Therefore, we ask our opponents, how can we be sure what precisely the Holy Spirit teaches in those rhetorical passages?

NINTH THESIS. In several Encyclical Letters, in Allocutions delivered in Consistory, and in other Apostolic Letters, Pius IX spoke from the Chair. It is indeed acknowledged by all Catholics that Pius IX spoke from the Chair once during his pontificate; for whoever says otherwise cannot be a Catholic. That speech was through the dogmatic Bull, *Ineffabilis*. The phrase "from the Chair" is not always used univocally, since it concerns definitions of faith and other definitions. However, in a sufficiently proper sense, it can be said that the Pope speaks from the Chair, even if he does not propose any dogma to be believed, whenever he teaches Catholic doctrine infallibly, as the Universal Doctor. Furthermore, it must now be declared that Pius IX truly taught Catholic doctrine in many Apostolic Letters and Allocutions. And this, indeed, is equally testified to in the Encyclical, *Quanta cura*. In the first paragraph of that Encyclical, he declares that his predecessors, the Roman Pontiffs, never failed to diligently nourish the entire flock of the Lord, and to imbue them with the words of faith and salutary doctrine: rather, they never ceased to restrain and condemn all heresies and errors that, contrary to our Divine Faith, have frequently stirred up storms, etc. These Constitutions, as is known, are those definitions.

[*Latin ed. p. 632*]

632 APPENDIX XVI. These were doctrinal pronouncements, through which, in all previous centuries, the Church was preserved safe from the ravages of heresies and errors. Therefore, it is certain that these were issued by the predecessors of Pius IX, as Pastors of the Church and Universal Doctors. Indeed, (thus the Pontiff continues in the second paragraph), following the illustrious footsteps of our predecessors, we have raised our voice, and in numerous Encyclical Letters published for the public, and in Allocutions delivered in Consistory, and in other Apostolic Letters, we have condemned the principal errors of our most grievous age. Our predecessors condemned heresies and errors through Letters and Constitutions issued from the Chair of Truth: and Pius IX declares that he has followed in their footsteps in condemning the principal errors of our age. These condemnations, therefore, were issued from the Chair of Truth. Moreover, as he himself says, they were contained in numerous Encyclicals, Allocutions, and Apostolic Letters: therefore, those Encyclicals, Allocutions, and Apostolic Letters were issued from the Chair of Truth. And especially, (says Pius IX), in our first Encyclical Letter, written to you on November 9, 1846, and in two Allocutions, one delivered on December 9, and the other on June 9, 1862, in a Consistory held by us, we condemned monstrous opinions which, above all in this age, dominate with great harm to souls and with detriment to civil society itself, etc. When, therefore, the Pontiff solemnly condemns certain opinions prevalent in a given age, he undoubtedly speaks from the

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Chair of Truth: therefore, in that Encyclical and in those two Allocutions, Pius IX spoke from the Chair of Truth (1).

TENTH THESIS. God has not in the least obligated the Pope to a specific form of speaking from the Chair of Truth. It is only required that, either in that very act of the Pope, or in some other way, the intention of teaching the whole Church be clearly manifested. Indeed, I believe that no theologian can be found who explicitly holds that the Pope is obligated by God to a specific form of speaking from the Chair of Truth. Nevertheless, it often happens, perhaps through carelessness, that this or that theologian argues as if he implicitly believes that such an obligation exists. If we are speaking of Dogmatic Bulls, it is sufficient to note that these have been used almost exclusively in recent times. All the pronouncements that have come from the Chair of Peter throughout many centuries have taken on a different form, not the form of a Dogmatic Bull. Some, perhaps, do not deny this thesis, but seek to evade its force in another way. With the passage of time, (they might argue), the Popes have chosen Dogmatic Bulls as the exclusive means of teaching the Universal Church. From that time on, whenever the Pope speaks in another form, he sufficiently demonstrates that he does not intend to teach from the Chair of Truth, nor to obligate the assent of the faithful. First of all, it can be answered that there has never been an age in which the use of teaching from the Chair of Truth has prevailed except through Bulls.

(1) I spontaneously confess that, while expounding this thesis in some of my writings, I extended it further than it deserved. I believed that all the acts of Pius IX were issued from the Chair of Truth, in which propositions are noted that were later condemned in the Syllabus. But I now retract this opinion. Grave theologians have warned me that, from the mere fact that those acts are cited in the Syllabus, it cannot generally be proven that they were issued from the Chair of Truth; but each must be examined separately.

[*Latin ed. p. 633*]

APPENDIX XVI. If that custom ever prevailed, it certainly existed in the seventeenth century: and yet, even in that century, Innocent XII condemned [something] not through a Bull, but through a Brief. And no one has ever doubted that this condemnation was issued from the Chair of Peter. But let us suppose, for the sake of argument, that the Popes for some centuries spoke ex cathedra only through Bulls: this would not provide any substantial basis for the conclusion of our opponents. No one would dare assert that the Popes who reigned in those centuries intended to obligate their successors to speak in the same manner; or that they could have done so, even if they had intended it. Moreover, as we have already seen, Pius IX testifies that he has spoken ex cathedra on several occasions through Encyclicals, Allocutions, and other Apostolic Letters. Gregory XVI promulgated a declaration not dissimilar [to an ex cathedra statement] (see

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Denzinger, n. 1486); indeed, he issued the Encyclical *Mirari vos*, most certainly ex cathedra. Therefore, even if a custom once existed among the Popes of not speaking ex cathedra except through Bulls, Gregory XVI and Pius IX have clearly declared that they no longer observe that custom.

THESIS ELEVENTH. A certain pronouncement can be ex cathedra, even if the obligation to assent is not explicitly expressed, whether by the word "anathema" or by any other means. As a further example, the truth of this thesis is demonstrated by the Encyclical *Mirari vos*. Although, as we have seen, Gregory XVI made it very clear externally that all Catholics are bound to assent to the doctrine expounded therein, he did not explicitly affirm this in the Encyclical itself. The same can be said of St. Leo's Letter to St. Flavian, and of many others.

THESIS TWELFTH. A certain pronouncement can be ex cathedra, even if, with regard to its very form, it is not directed to the entire Church: that is, if it is addressed to a particular Bishop, or even to a layman. A pronouncement ex cathedra is nothing other than a pronouncement in which the Pope intends to teach the entire Church, exercising his Apostolic authority, and he sufficiently manifests this intention. Some theologians who have sought to explain this truth have been misinterpreted, as if it were necessary for all pronouncements ex cathedra, with regard to their very form, to be directed to the entire Church. But this is a most egregious delusion. A certain act of the Pope is directed to the entire Church if it is addressed to all the Bishops; or even more so if it is addressed (as in the case of Bulls, *Unigenitus* and *Auctorem Fidei*) to all the faithful. However, the Bull *Ineffabilis*, with regard to its form, was not so directly addressed to the entire Church. And, to pass over many other examples, the most famous letter of St. Leo to Flavian demonstrates the truth of this thesis most convincingly. Indeed, Benedict XIV, when writing to the Archbishop of Santo Domingo on December 5, 1744, wrote: "We write, not by the authority of the Apostolic See... but merely in the person of a private Doctor..." and further: "...since we have not seen that the question required the oracle of a Pontifical decision." Therefore, the Pontiff could have given an oracle regarding a question concerning a single Bishop, in his reply.

[*Latin ed. p. 634*]

684 APPENDIX XVI. THESIS XIII. If in any papal letter a certain proposition is declared to be heretical, erroneous, rash, etc., or to be revealed, certain, Catholic, etc., then that letter is generally to be considered to have been issued *ex cathedra*. Thus, Murray, in *De Ecclesia*, d. 20, n. 445, states: "For that the pure faith may be maintained, it is necessary that what pertains to the Universal Church, to all and to each, to all and to each believer, should be equally observed." Furthermore, the Pope, by using such language, sufficiently indicates that he intends to express an obligation, by which all Catholics are bound to accept his declaration with absolute

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assent. Nevertheless, this thesis, we believe, requires some moderation and explanation. It is possible that a certain Catholic—e.g., a king or emperor—out of ignorance, may hold a proposition that is, in fact, worthy of censure by the entire Church; or may reject a proposition that is known to the entire Church to be Catholic and certain. Therefore, the Pope may admonish such a person, not as the Universal Doctor, but as the Governor of the Church in matters of doctrine. However, this exception is of very little importance. For the testimony of the Pope, that a certain doctrine is known throughout the Church to be "certain," will scarcely have a lesser effect in practice than if he declared that doctrine *ex cathedra*. For example, Pius IX. admonished Victor Emmanuel that it is the doctrine of the Catholic Church that conjugal union cannot exist between Christians except in the Sacrament of Matrimony. If the Pope wished to testify that all Catholics throughout the world should morally feel this way, such a testimony is almost equivalent to a statement made *ex cathedra*. However, if he knew that there were some who were not strictly Catholic who doubted that truth, and yet he pronounced that doctrine to be Catholic and most certain, then, undoubtedly, he determined the matter as the Universal Doctor.

THESIS XIV. All the errors that are listed in the Syllabus, promulgated by Pius IX on December 8, 1864, were condemned *ex cathedra*. The truth of this thesis—since the time when the Syllabus was debated—has become increasingly manifest day by day, from the manner of speaking and acting of both Pius IX and the Bishops. 1. Cardinal Antonelli, at the order of Pius IX, took care to send this Syllabus to all the Bishops, because it contained errors and pernicious doctrines that had been condemned and rejected by the Pope. By calling these errors "condemned and rejected," the Pope sufficiently indicated that he intended to express an obligation, by which all Catholics are bound to completely reject these errors. 2. If we wish to know how Pius IX wanted this Syllabus to be received by the faithful, let us see how it was presented to the faithful in the very city of Rome, with the Pope's approval. Cardinal Patrizi, the Vicar of Pius IX in Rome, when, in the year 1865, he sent out his invitation for the observance of the Forty Days of Lent, spoke of the Encyclical *Quanta cura*, and also of the Syllabus. He declared that these two documents should be received by the faithful as the very word of God.

[*Latin ed. p. 635*]

APPENDIX XVI. 3. Likewise, the Bishops have spoken, to whom the duty of teaching the Church throughout the world has been entrusted by God, in conjunction with the See of Peter. Let the Bishops of Galliae be an example. This "Syllabus," together with the Encyclical "Quanta cura," to which it is attached, they call the infallible rule of faith—an obligatory standard in the conscience of Christians—a sort of creed, an oracle of truth, infallible, to which the minds and hearts of Bishops must

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be taught—which requires the full and perfect assent of both spirit and heart from all Catholics—the Bull "Unigenitus" in its entirety, etc. (1). Not a single Bishop throughout the world has openly contradicted these declarations.

4. Finally, and above all, Pope Pius IX, in his living oracle, has most eloquently revealed his mind. On June 17, 1867, he spoke to the Bishops in this manner: "I now confirm before you the Encyclical 'Quanta cura,' as well as the 'Syllabus,' and I propose them again to you as a rule for teaching. But what is a rule for teaching for the Bishops, is, beyond all doubt, a rule for believing for the faithful."

QUESTION FIRST. Whether, whenever the Pope, in a certain doctrinal exposition, teaches all the faithful what they must hold as certain, he should be considered to be speaking *ex cathedra*. To this question, the answer must be affirmative. In my writings in English, I have always taken this as a given. It is certainly well-known among all theologians that the Pope speaks *ex cathedra* whenever he speaks as the Universal Doctor. Whenever, in a certain doctrinal exposition, he teaches all the faithful what they must hold as certain, I have considered that he is thereby (by the very meaning of the term) speaking as the Universal Doctor. This sentiment is expressed by Bouix in the passage cited below, and Murray also says (de Ecclesia, d. 20, n. 114): "It is scarcely possible for the Pope to propose any doctrine to the universal Church except authoritatively; although this may be done in a letter to a particular Bishop."

However, some grave and very serious modern theologians, as I have already learned, hold a different opinion. They believe that the Pope—even when he teaches all the faithful what they must hold—does not always speak as the Universal Doctor. They believe that in such declarations, he sometimes speaks by the authority of the pastoral office divinely entrusted to him, but not by the full extent of that authority; that he sometimes teaches the entire Church, but not infallibly; or (as we may perhaps express the same thing in a slightly different way) that he sometimes proposes a doctrine as one to be held by the entire Church, not so much as the Universal Doctor, as the Universal Doctrinal Governor. However, these theologians add, and they can insist most urgently, that no Catholic can inwardly dissent from doctrines thus declared, without violating the due submission owed to the divinely instituted magisterium. I confess myself unequal to solving this knot. However, if it is clearly understood that these theologians consider it to be beyond doubt—namely, that in such declarations, every Catholic must give his interior assent to what the Pope says—then the whole matter will be of little practical importance. I, however, still lean strongly towards an affirmative answer.

(1) The words of the Bishops cited can be found in my work written in English, "On Doctrinal Decisions which are not Definitions of Faith," pp.

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86—91.

[*Latin ed. p. 636*]

636 APPENDIX XVI. QUESTION SECOND. Whether the doctrinal decrees of the Roman Congregations, which expressly and in words bear the confirmation of the Pope, are to be considered as infallible decisions of the Pope. Bouix answers affirmatively to this question in his celebrated work on the Roman Curia. He speaks thus (p. 480): "The doctrinal decrees of the (Roman) Congregations are infallible when they are issued in the name of the Holy Congregation, but with a special mandate from the Pope, or with the Pope's own confirmation." 1. "In the case of the Pope's confirmation, it is clear that the decree is to be attributed to the Pope himself; indeed, he makes it his own by confirming it. And when it is made dogmatic and published, the Supreme Pontiff is to be considered as teaching the entire Church through it; and therefore, such a decree must necessarily be infallible." 2. "It is also infallible, a dogmatic decree issued in the name of the Holy Congregation, if it is published by a special mandate of the Pope. For, in the very fact that the Supreme Pontiff, having knowledge of a certain dogmatic decree, wills and commands it to be published, he approves and makes it his own. Therefore, he judges and defines precisely what is defined in the decree. Therefore, this decree will be just as valid as if it were issued and published immediately by the Pope himself, and in his own name. Therefore, the Pope is also to be considered as the Universal Doctor, and therefore, he pronounces infallibly on the dogma." I have adopted the same opinion in what I have written in English; moved not only by the authority of the most serious theologian already cited, but also by certain testimonies that seemed relevant to the matter. Pope Pius IX, in a letter to the Archbishop of Cologne dated June 15, 1857, spoke of a certain decree that the Congregation of Indices had promulgated concerning Gunther's books. "This decree," (says Pius IX), "sanctioned by our authority, and promulgated at our command, should be sufficient to ensure that the entire question is completely settled; and that all who glory in the name of Catholic should clearly and openly understand that it must be fully obeyed, and that the doctrine contained in Gunther's books cannot be sincerely held." Similar examples seemed to be found in the controversies at Louvain concerning Traditionalism. Indeed, on August 30, 1866, Cardinal Patrizi, at the command of Pope Pius IX, wrote to the Bishops of Belgium, speaking of certain decrees of the Holy See by which Catholic men have the duty to submit fully, perfectly, and absolutely, with all contentions removed that would hinder sincere assent. What were these decrees of the Holy See? Cardinal Patrizi answers this question in the same letter. These decrees of the Holy See are nothing other than the responses of the Sacred Congregations of the Holy Office and of Indices, sanctioned by the authority of the Supreme Pontiff, and bearing that sanction. On August 1, the Bishops

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of Belgium informed the Pope that some, among those professors whose opinions were rejected in the Apostolic decision, were denying internal assent to that decision. "It is a matter of discipline, not of doctrine," they said, "we cannot teach what has been rejected, but we can privately hold, those things which we publicly taught." Cardinal Patrizi wrote back to them, stating what had been communicated to the Bishops of Belgium in the name of the Holy Father. Therefore, at the command of Pope Pius IX, he openly declared that those professors had the duty to...

[*Latin ed. p. 637*]

APPENDIX XVI. It is necessary that the Nerites fully, perfectly, and absolutely submit to those decrees. But to demand that Catholics fully, perfectly, and absolutely submit to certain decrees seems to be nothing other than to declare that those decrees have been promulgated from the Chair. However, in this matter, the same thing happens to me as in the former one. For after I had written this, I found that certain grave theologians of our time do not confirm this opinion. These theologians are not at all concerned that the Pope ever speaks ex cathedra through such doctrinal decrees; but they do not always consider that the matter is always so. Therefore, I am hesitant; and I dare not assert anything about this controversy. In this case, as in the former, the whole matter will be of little importance in practice. For it is certain that these theologians hold that all Catholics are obligated to give internal assent to all such decrees. See Thesis Seventeenth on this matter.

THESIS FIFTEENTH. To all definitions promulgated by the Popes from the Chair (with the agreement of the Episcopate), internal assent is due, at least objectively, firm and absolute, as if they were infallibly true. We added the phrase "with the agreement of the Episcopate" so that we would not speak of Gallicanism. We added the words "at least objectively" because the obligation of this (with regard to its entire extent) can easily be excused by invincible ignorance. But the truth of this thesis is evident from its very terms. When the Pope speaks from the Chair, he intends to obligate all the faithful to give internal and absolute assent to his determination, as if it were infallibly true; for to speak from the Chair is nothing other than to intend this. All agree that this obligation is under pain of mortal sin, and not merely venial sin. This thesis will be applied differently in practice, depending on the reason required by the moral system that is adopted. We follow probabilism; and we will consider what should be said about this matter according to the teachings of the probabilists. We assume that when the Pope speaks from the Chair, the Bishops have added their voice.

1. Certain papal acts are of such a nature that no one can certainly know whether they proceed from the Chair. With regard to the doctrine contained in these acts, no one is formally obligated to give absolute assent to that doctrine as if it were infallibly true, unless some other obligation arises from some other cause.

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2. Certain papal acts are of such a nature that this theologian or that theologian may believe that they proceed from the Chair; although other and quite numerous authors hold a different opinion. That theologian is formally obligated to give absolute assent to those things as if they were infallibly true; but he cannot impose that obligation on others, either in the Sacrament of Penance or on any other occasion.

3. Finally, there are other acts about which there exists no solid probability, either intrinsic or extrinsic, that they are not pronouncements from the Chair. This is true, it seems to me—not speaking of dogmatic Bulls and similar documents—but of Encyclicals, *Mirari vos*, and *Quanta cura*, as well as the Syllabus; and of other Encyclicals, Allocutions, and Apostolic Letters, in not a few cases. Therefore, the obligation to assent to the doctrine contained in these acts, as if it were infallibly true, is certain. However, the confessor is not always obliged to admonish the penitent about even the most certain obligation, which...

[*Latin ed. p. 638*]

638 APPENDIX XVI. It cannot be known whether that penance is invincible. Therefore, in every case that arises, the priest must consider the various circumstances and, as far as he is able, consult for the glory of God.

THESIS SIXTEENTH. When all the Popes, who, on any occasion, deal with the same matter, agree with one voice and mind, and affirm something pertaining to the Catholic doctrine, absolutely and unequivocally—even if they have not explicitly taught it from the chair—their consensus must nevertheless be considered as a certain indication of a doctrine that permanently exists in the Holy See, and which is therefore infallibly true. Thus, in almost these very words, Father Martin of the Society of Jesus, in his excellent work on Marriage and the power to dissolve it, volume I, page 524. This thesis, I believe, has great force in resolving some difficulties that may arise from the foregoing statements. For although the Apostolic Acts are not a few, and it cannot certainly be determined whether they proceed from the chair; nevertheless, it is scarcely, or not at all, possible to find any papal act that inculcates some doctrine of importance as certain, which is not otherwise known as the doctrine of the Holy See, and therefore infallible. What, then, are those utterances of which this thesis speaks? This is best explained by the same Father Martin: "Testimonies are those things which the Holy Fathers have put forth at various times, not as if they solemnly and from the chair teach, nor as if they define doctrine to be believed by all the faithful, but as the Holy Fathers exercise their supreme office, whether of teaching and confirming the faithful or themselves as pastors, of defending and preserving the true doctrine and correcting errors. Therefore, these testimonies are those in which the mind and sense of the doctrine of the Holy Fathers is expressed, not as doctors private, but as the Holy Fathers; that is to say, by teaching, they declare, other than

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the truth, as already fixed and established by a previous definition or by their own doctrine," page 482. Or, to say the same thing in another way, the utterances of the Popes are those of Popes speaking, but not from the chair; utterances which the Popes make, not as Universal Doctors, but as Governors of the Church in matters of doctrine. What proof can be offered of this thesis? Let us hear Father Martin again. "Although," he says, "in some case, the testimony of a single Holy Father may sometimes appear to be merely the opinion of that doctor as a private person, yet when many Holy Fathers agree, it is certain that they are not expressing a mere opinion. Otherwise, there would occur that diversity of speech and thought which always occurs among private doctors who are of different opinions on a doubtful matter; for when a private doctor is made a Holy Father, he does not immediately put on the mere opinions of his predecessor. But their consensus must be considered as a special argument of doctrine, whether already defined, or at least fixed, constant, and established in the Holy See: because this unanimous and constant consensus can have no other cause," page 524. Indeed, any doctrine that permanently and firmly exists in the Holy See is undoubtedly true. For to this Church, because of its superior primacy, all must agree, that is, those who are faithful everywhere; in

[*Latin ed. p. 639*]

APPENDIX: That which has been preserved from all sides, according to the tradition of the Apostles, is always maintained. In this nineteenth century, as in the third, Pope Pius IX teaches, as did St. Ignatius. The Roman See, the Chair of the Blessed Peter, has always preserved the faith transmitted by Christ, intact and inviolate, and has taught it to the faithful, showing all the way of salvation and the doctrine of incorrupt truth (*Qui pluribus*, November 9, 1846). In this (Roman) Church, there exists an irreformable magistrium of the same faith, founded by the Divine Redeemer (*Noscitis et nobiscum*, December 8, 1848). The Roman Church is the center of Catholic truth and unity, in which religion has been inviolably preserved, and from which all churches ought to draw their faith, as Leo XVI teaches (*Ineffabilis*, December 8, 1854). Furthermore, there are not a few matters, nor of small importance, concerning which a certain doctrine has been transmitted by a long series of Popes. Concerning various philosophical questions, concerning the power of the Church in temporal matters, concerning the mutual relations of the priesthood and the empire, concerning the civil authority of the Pope, concerning freedom of conscience and the art of printing, concerning the mixed education of youth, Popes of entirely different character, in entirely different circumstances, have never spoken differently. As P. Martin argues, this unanimity can be attributed to no other cause than the constant and permanent tradition in the Holy See.

SEVENTEENTH: Doctrinal decrees promulgated by the Roman Congregations are of the greatest authority. To them, every Catholic owes a certain

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internal and firm assent, although not entirely (if it is permissible to speak in this way) irreformable. The same must be said, a fortiori, of the doctrinal declarations of the Pope (if any), which teach that a certain doctrine is to be held by every Catholic, which are not strictly infallible. If this thesis is accepted, scarcely any difficulty or obscurity will remain in practice in this matter. For if every Catholic owes a firm assent to all these declarations, it will relate more to speculation than to practice, to seek which of them are strictly infallible; and to which, therefore, assent is prescribed, not merely firm, but absolutely and irreformably. For this thesis, an unavoidable argument is drawn from the authority of the Church. The Church cannot err in matters concerning faith and morals. The Church always praises those who subject their intellect to the decrees of the Roman Congregations, and, on the other hand, condemns those who refuse to do so. This could not have happened unless true obedience of intellect were due to those decrees. It is not uncommon for this thesis to be objected that no proposition deserves a firm assent unless it is either demonstrated by evident arguments or declared infallibly. But in reality, this is not the case, as is clear from many examples.

1. Titius, for example, in many actions, and in those known only to me, shows himself to be a good man, although he is the worst. I am firmly convinced that he is truly a good man; and I am so convinced that I would gravely sin if I considered him to be a wicked man.

2. To subject one's religious intellect firmly to the judgment of a Superior is, as St. Ignatius testifies, not a fault, but a matter of the highest praise.

3. A peasant, whom a parish priest teaches matters of faith and morals, is bound to firmly assent to all that the priest proposes as certain. And a thousand similar examples can be given.

[*Latin ed. p. 640*]

640 APPENDIX XVI. Indeed, in none of these examples is a reason given for assenting that is so weighty as in the case proposed. In the Church of Rome, as We have already cited the words of Pius IX, there exists an infallible magisterium founded by the Divine Redeemer; in it alone has religion been inviolably preserved; from it all the other churches ought to draw the remainder of their faith. But the Congregations, of which We are speaking, operate fully in the light of the Roman tradition. Therefore, in matters pertaining to the safeguarding of the Deposit of Faith, even if the Church had not issued any precept or counsel on that matter, it would almost seem that someone would be mad who would place his own judgment above the judgment of these Congregations. But these Congregations not only promulgate their own judgment, but the Supreme Pontiff has entrusted them with authority, as the Governor of the Church in matters of doctrine, to guide all the faithful in the path of sound doctrine. Therefore, one would sin against due obedience who would not give firm assent to their decisions.

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Moreover, as is most clearly evident, it must be said even more strongly concerning the doctrinal declarations of the Supreme Pontiff Himself (if any such exist), which teach some doctrine as one that every Catholic ought to hold as certain, provided that they are not strictly infallible. Whether such declarations exist, as We have already said, is a doubtful matter.

CONCLUSION. These things have been said by Me briefly and imperfectly. It is not necessary to add that I humbly submit all things to the infallible judgment of the Holy See. Moreover, I earnestly urge the theologians—as I have also stated in the Preface—to deign to correct My errors and to make the truth about the whole matter clear. Thus far, the most illustrious Author. It has been most opportune for us in our time to present this treatise; but it will be for the theologians, if they should judge that anything has been said that is less certain or accurate, to examine it, so that they may define it more certainly and accurately, as far as their abilities allow.

[*Latin ed. p. 641*]

641. THE ADDRESS OF OUR MOST HOLY LORD POPE PIUS IX, GIVEN BY DIVINE PROVIDENCE ON THE DAY OF THE CONSISTORY, JUNE 25, 1869, IN SECRET: "Venerable Brothers, We are compelled, with the greatest sorrow of Our mind, in this most ample assembly of yours, to deplore the new law, most harmful to the Catholic Church, and to its immunity, liberty, and rights, and even to civil society itself, which has been enacted and promulgated by the Subalpine Government. And here We speak of the law by which that same Government, after so many and countless offenses and injuries inflicted upon the Church, its sacred ministers, and its institutions, has dared to subject Clerics to military conscription. Does not everyone see how damaging and how hostile this law is to the Church, which hinders and restricts the Church's right, granted to it by Christ the Lord Himself, to choose suitable and necessary ministers, who have been appointed by the same Christ to defend His divine religion, to spread it, and to provide for the salvation of souls until the consummation of the age; and which seems to aim solely at this, so that, if it were ever possible, the Catholic Church in this unhappy Italy might be utterly destroyed and exterminated." Truly, the words fail Us to again condemn and detest such a law. Everyone knows that We have not neglected Our office in the discharge of the duties of Our Apostolic ministry, and that all Venerable Brothers, the sacred prelates in Italy, have justifiably made their complaints, appeals, and remonstrances, so that such a law might never take place. And would that We could refrain, Venerable Brothers, on this occasion, from lamenting the most grievous evils and damages by which our most holy religion is now, in a most pitiable manner, afflicted, even in the Austrian Empire and the Kingdom

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of Hungary."

[*Latin ed. p. 642*]

642. CONSISTORIAL ADDRESS. "Therefore, and I am greatly distressed. But the news that reaches Us from the Kingdom of Spain brings us no consolation, but rather sorrow and grief."

"Furthermore, the Russian Government continues to harass the Catholic Church, and from almost all the dioceses, it forcibly expels bishops, driving them into exile, because they wish to hear and obey the voice, the commands, of Christ's vicars here on earth, and it does not allow these bishops to leave the borders of that empire, even if the greatest benefit to the Church absolutely requires it. And more and more each day, it hinders those faithful from freely communicating with Us and with this Apostolic See."

"But amidst these most grievous anxieties that trouble us, there is certainly no small consolation to us in the supremely praiseworthy pastoral zeal with which the sacred prelates valiantly defend the Catholic cause, and strive to preserve the integrity of our most holy faith and to defend the unity of the Church against the many snares and attempts with which impious men seek to spread their errors. And we trust that in the future, the entire Catholic clergy will strive to imitate and emulate, to the best of their ability, the illustrious example of their bishops."

"Meanwhile, we remind these servants of Christ and of His Holy Church, again and again, to seriously consider how terrible God is in punishing His enemies and the enemies of His Church."

"We, however, Venerable Brothers, do not cease, but with the most fervent and humble prayers, beseech the Father of mercies, that He may bring back all those who are wretchedly wandering from the path of perdition to the right path of truth, justice, and salvation, and that the Catholic Church everywhere on earth may daily shine forth and increase with new and more splendid triumphs."

[*Latin ed. p. 643*]

643 M S, CONGREGATIONE CONCILII. OF NOMINATION AND ESTABLISHMENT. December 19, 1868, and February 27, 1869. The causes which are most frequent in canonical matters, and which are still frequently raised, are those which concern the matter of patronage; and you would not be far from the truth if you were to say that, if the right of patronage were abolished, ecclesiastical causes would cease to arise for almost a third. I do not say this in the sense that it should be considered that the right of patronage should be abolished for this reason. For the questions which are frequently raised concerning some aspect of ecclesiastical discipline, show that that aspect of discipline is still in use and in force; for we believe that the neglect of a discipline is indicated when those things which are written

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in the Codes are never, or almost never, brought before a judge. This is also evident from the fact that if all aspects of discipline were abolished, no further legal question would arise. Nevertheless, we refer to these questions very sparingly in our publications; because most of them come from dioceses of Italiae, and in many Catholic nations, this right of patronage either does not exist at all, or is entirely unknown; and also because, in fact, they are often so complicated that the very particular narration of the facts would take up a large part of our publication without any benefit. Summary of facts. In the year 1528, Petrus Mola established a canonry under the invocation of St. Christopher in the cathedral church of N., reserving for himself and his descendants the right of patronage, both active and passive. And with regard to the active right, he established the following: "Provided that, during my lifetime, and after me, for my legitimate male descendants and their male descendants ad infinitum, the senior of the descendants shall always have the right of patronage..." Where, however, the line of legitimate male descendants should fail, and as stated above, of my aforementioned descendants, then that right of patronage, of which we have spoken above, shall pass and be transferred to the female descendants of the legitimate offspring. And...

[*Latin ed. p. 644*]

644 If no female heirs remain, then the right of patronage shall pass to other male heirs from Mola, and as above, and the eldest among them shall have the right to nominate and present the Canon, as above and as previously stated. Finally, he declared his intention that his brother, whenever he deems it fitting and as it pleases him, may nominate or choose whomever he prefers to be the patron of said canonical prebend after him and his male descendants, and that this right may be transferred to him or them, as he deems best and as it pleases him, even outside the families of Mola. Regarding the passive right, he stipulated that no one else may be nominated, presented, confirmed, and instituted to this kind of canonical prebend, nor admitted, if someone from among the aforementioned descendants wishes to accept the prebend, and that someone from among these descendants may be nominated, presented, and instituted to the prebend even if he is not a priest, nor ordained in the sacred orders, but only a cleric with the first clerical tonsure, and may receive the fruits and revenues, provided that he serves in the divine office until he attains the priesthood; and if he ceases to serve, or to perform service, for a continuous month, then in that case also he shall be, by law and by fact, deprived of the prebend, and then it shall be permissible for the patron, as above, and indeed he must nominate and present another from among the aforementioned descendants to the prebend. And if there is no one among these descendants who wishes to accept the prebend, then another shall be nominated and presented, but who is a priest, and no other, nor in any

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other way, or at least who can and must be promoted to the priesthood within a year, and if there are several of these descendants who wish to accept the aforementioned prebend, then the eldest among them shall be nominated and presented and instituted. Peter Mola, the founder of this canonry, had only one male child, from whom two daughters, Camilla and Theodosia, were born: from these, three families have originated, which still exist today: namely, the family B. from Camilla; and the families C. and S. from Theodosia. The eldest of these families has, until now, nominated and presented [candidates]. When the canonry became vacant for the last time, the eldest of these three families nominated Aloysius, a priest, who was entirely outside of these families.

[*Latin ed. p. 645*]

AND OF THE FOUNDATION. 645 This nomination was opposed by the Count of Portapuglia, who asserted that Anthony, his thirteen-year-old son, had been called to the canonical prebend in Clericum, while his mother was of the lineage of Peter Mola. This caused great distress, not only to the priest named Aloysius, who had been chosen by the senior members, but also to James B., a member of the first family of patrons, as I have indicated, who insisted with the episcopal court that, unless the nomination of the priest Aloysius was accepted, he would nominate his own son, Mansuet, who was ten years old, who would undoubtedly be preferable to the cleric of Portapuglia, since the former had a quadruple connection to Peter Mola, while the latter had only a simple connection through female relatives. This matter, having been brought before the Sacred Congregation of the Council, was debated by both parties. A SYNOPTIC ACCOUNT OF THE DISPUTE. IN DEFENSE OF THE PRIEST ALOYSIUS. He argued that agnatic kinship alone should be the determining factor, so that the law of the foundation, as long as the male line existed, prescribed that someone from the family should be nominated; but when the male line ceased, the patrons could nominate and present whomever they wished. To demonstrate this, he first considered the law of the foundation regarding the active right of patronage, and then regarding the passive right. With regard to the active right, he pointed out that the founder, Peter, had first invited relatives in the direct line, and second, had invited relatives in the collateral line, in successive order, preserving the prerogative of seniority and age, as is evident from the aforementioned law of the foundation, in which a chain of male relatives was called by the founder to exercise the right of patronage, and therefore agnatic kinship is a quality to be preferred, as the Holy Rota has often taught. Furthermore, he added, women were also called to exercise that right, for the founder had not restricted it to women alone, who are considered as agnates in law and enjoy all the rights of agnatic kinship; rather, only the daughters of the last male descendant were called, and when the legitimate male line failed, and as stated above, of my

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own descendants, the right of patronage passed to the female descendants of those descendants; and it has been established in law that women are...

[*Latin ed. p. 646*]

646. Rodulphus affirms that all males immediately descended from a lineage retain all rights of agnatic inheritance until their death, citing number 15, section 9. A female, he argues, retains the rights of her own family as long as she does not pass into another family through marriage; indeed, even if she has passed into another family, she retains the rights of agnatic inheritance as long as she lives, according to the opinion of Ancharani, with which other authors concur. However, Aloysius argues, based on conjectures derived from the pronouns used, that only those females who were called by the tutor of the institution, and not their sons, are considered. Furthermore, if these females are absent, and the founder has stipulated that the right of patronage should pass to other, closer collateral relatives from Mola, then that same right of agnatic inheritance is confirmed. Moreover, Aloysius observes that the founder granted the brother the power to dispose of the right of patronage should the male line of the same founder cease; which he would not have done if he had also intended to include the sons of females.

Considering, furthermore, the law of the foundation concerning the passive right of patronage, Aloysius noted that the founder intended that no one should be named and presented unless they were descended from his male descendants through males; hence, he excluded males descended from females, as they would be considered outsiders from the male line of his sons. Finally, he confirms this from the power granted to the brother, as explained above, to dispose of the right of patronage at will after the aforementioned males, from which Aloysius argues that the founder strongly favored those agnates descended in a direct line, less favored those from a collateral line, and cared for nothing concerning those who were related by blood, since he made no provision for them. From these and other conjectures, he concluded that males descended from females could not invoke the passive right to obtain a canonry.

To remove the difficulty arising from the well-known doctrine of Fulgosius, according to which "males" should be understood to include both males descended from males and males descended from females; furthermore, he points out that this doctrine cannot be applicable in the present law of the foundation, since the instrument of the foundation was written in the year 1528, before the doctrine of Fulgosius was accepted; at that time, indeed, males were commonly understood to mean males descended from males.

[*Latin ed. p. 647*]

AND INSTITUTION. 647 Furthermore, it is to be understood that the

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founder held this opinion. Regarding the matter before the Sacred Court tribunal in Perugia, in the case of the Fideicommissi of March 8, 1776, before Riminaldo, which, among its printed Decisions, is Decision 547, numbers 19 and 20: there it is read: "It is to be noted that, during the time of the testament established by Count Rainerius," that is, during the year 1548, "there was a common usage, whereby males were designated by the name of descendants, even though they were males who were born through females; and such usage was most notably derived from the law of the Twelve Tables, which, in matters of inheritance, did not consider those descended through females as heirs, because they were neither of the same blood nor related by affinity, as Baldus testifies..." Although Fulgosius was much older than the aforementioned doctors, having flourished during the time of the Council of Constance, which was held within the years 1414 and 1418; nevertheless, his opinion, expressed in Council 85, which he had written concerning the advantage of his client, gained acceptance after fierce debates among the Doctors, as is stated in the same place cited, chapter 28, number 2. But our Sacred Court did not concede to the opinion of Fulgosius until the year 1573, in the case of Cavallicen, Baroniae de Thors, on January 28, 1573, before Oradino, printed in part iii, i. diversarum decis 6. "Therefore, since the matter concerns the interpretation of the testator's will, it is more appropriate to examine the time at which the testament was established, in order to understand what the testator intended, than to admit an opinion that seems more acceptable in our present age." Furthermore, in the year 1548, when Count Rainerius wrote his testament, the law obtained that males could be designated by the appellation of descendants, even though they were males by their male sex. Therefore, it is necessary to understand that he used the aforementioned words in such a way that they could have been understood by the testator's mind, at the time when he signed the testament, as best as possible. Soccin. Sen. cons. 6. n. 2. v. 1, Menoch. etc. After this ingenious reasoning, Aloysius had to remove a serious difficulty arising from the contrary custom; to which he pointed out that there are three kinds of custom, which we also call observance, one presumptive, another interpretative, and a third prescriptive, and that the first, because the presumptive observance takes precedence when there are no fundamental laws.

[*Latin ed. p. 648*]

648 The nomination lacked a proper interpretation; for this can occur when some doubt arises in the founding documents; and if one wishes to induce this interpretation when the founding law is clear, it ought to be called not an interpretation, but a destruction of the testator's will, as Pitonius states in Alleg. 47, n. 6. Finally, Aloysius excluded the prescriptive observance, saying, with Cardinal de Luca in *De Jurep.*, disc. 6, n. 1, that it requires "a long and very long time, and other requirements," especially

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that the observance be clear and unambiguous, and not "derived from ambiguous acts." But when three acts were presented from the year 1754, by which the canonry was conferred upon those who were in the same patron families, Aloysius said that such an observance was neither clear nor unambiguous, but ambiguous, since those were presented as members of families, not passively called, but because they were spontaneously presented by the Patrons. After these things, he presented several points of fact against Cleric Anthony, arguing that the canonry, according to the founding law, required the quality of priesthood, which Anthony lacked.

DEFENSE OF CLERIC ANTHONY. Anthony, in his defense, initially undermined the structure built by Aloysius: noting that natural affection is felt towards all, both male and female, he argued that, unless clearer arguments are presented that demonstrate the opposite, the intention of the Founders in these matters should be understood to be for both agnates and cognates, as Richer teaches in L. 2, title 32, § 9583 and 9590, and as the Sacred Rota has generally taught. However, in the present matter, such arguments are completely lacking; indeed, the contrary can be shown, since the women were explicitly called to the right of patronage. And if the Founder added: "And if no women remain, then the right of patronage shall pass to others from Mola, and again, even outside the families of Mola," this rather shows that the Founder intended both agnates and cognates, since all are included under the appellation of house and family, as is generally read in these matters, both in the documents of the Sacred Congregation and in the decisions of the Sacred Rota, specifically in the Reatina Chapel, January 19, 1756, before Bussio, where n. 3 states...

[*Latin ed. p. 649*]

AND OF THE ESTABLISHMENT. 649, having laid out the matter: "Lawrence, although descending through women," is included and considered within this [rule], whether in this [case] concerning an indifferent matter, or concerning canonical equity, or concerning the most evident authentic law, in which the appellation of family, both of those related by blood and of those related by affinity, are indiscriminately included." This is in agreement with what Pitonius teaches in *De Controversiis*, paragraph 75, number 6, arguing that the words "of the house," "of the lineage," are to be understood demonstratively, not restrictively, "as they stand demonstratively in relation to those related by blood, that is, to those related by lineage, beginning with those closest to the founder, intending that they should be preferred to all others; but they do not stand restrictively, so that, if those related by blood are extinct, the founder would wish to prefer outsiders to the exclusion of those related by affinity, since it is presumed that the will exists to favor the continuation of the bloodline, which is the same in the related by blood and in the related by affinity, and the reason of lineage does not invalidate

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the passive right of patronage, and even if it were a military patronage, it would operate as long as those related by blood exist, but not after their extinction, which would never be presumed to be a hatred of one's blood relatives." From this, the well-known doctrine of Fulgosius is received in the forum, which is as follows: "Under the term 'descendants,' both male and female descendants are included, since they themselves are also descendants; therefore, the meaning and proper significance of that term operate in their favor. Therefore, to exclude males from females, clear and evident demonstrations are required, which cannot in any way be twisted to another meaning."

Anthony confirmed the doctrine presented in this matter by observation, openly showing that the law of the foundation had been understood in this way until now, recounting several presentations made to him for the Canonry, and confirmed by judicial sentence in the dispute between the parties, because the presented candidates had been judged to be passively called from those families. Anthony argued against the priest Aloysius on these points; but he had argued even less against Mansuetus, who was the youngest. It was enough for him to note that the Founder had called "descendants" without adding "or those related by blood or by affinity," and that this alone strongly suggested that, in the case of several descendants competing, preference should be given to the eldest; but Mansuetus was the youngest in age.

[*Latin ed. p. 650*]

650. NOMINATION. After these and other considerations, the question was proposed before the Sacred Congregation of Councils in the meetings held on December 19, 1868, and a response was given: It was decided, in accordance with the opinion of the Sacred Congregation, that a discussion should be held regarding the qualities required for those to be nominated and instituted by the founder, both in fact and in law. Therefore, that portion of the law concerning the foundation, which I have already fully recounted above, pertaining to the qualities of those to be nominated, was presented in its entirety, and certain additions were made concerning the conditions required to obtain a Canonry in the Cathedral Church. For, in the ancient law, there was a dispute as to what age was required for a Canonry, Prebend, or portion of a cathedral church; some maintained that seven years were sufficient; others, on the contrary, required at least fourteen years of age for those beginning their studies, as Schmalzgrueber states, *Jus Eccl. univ* p. 0, title 14, n. 5. However, the Council of Trent, in session 24, chapter 12 concerning Reforms, established the following regarding the attainment of a Canonry in a cathedral church: "Let no one henceforth receive the dignity, canonry, or portion, unless he has been initiated in that sacred order which that dignity, prebend, or portion requires; or unless he has reached that age in which, according to the law

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and according to this Holy Synod, he can be initiated." However, it was noted that the Canonry, of which we are speaking, was established before the Tridentine law; therefore, it does not appear to be subject to this Tridentine provision, according to the principle stated in the final chapter of the Constitutions, with these words: "Laws and Constitutions give form to future affairs, and are not to be applied to past actions, unless it is expressly stated therein that they apply to past actions." Hence, the Sacred Congregation declared, according to Gallemart in *Trid.*, chapter 12, session 24 concerning Reforms: "The Sacred Congregation decided that this decree does not include the Canonry of lay patrons, which was established before the Council, in whose foundation it was stipulated that those descended from the Founder could obtain it, even if they were not instituted in the sacred orders, but were merely clerics, until they were promoted to the priesthood." Therefore, if the Sacred Congregation judged that the minor age did not prevent Mansuetus or the cleric Anthony of Portapuglia from obtaining the canonical prebend, it should be inquired...

[*Latin ed. p. 651*]

AND OF THE ESTABLISHMENT. 651, concerning which is to be preferred, one over the other. Furthermore, it was considered that both had received the sacred tonsure in the presence of the institution, but that Mansuetus, having requested the vacancy of the Prebend, had obtained the tonsure after; both descended from Peter Mola, but Mansuetus was closer to the Founder, and Anthony was more distant, although he was older in years. If the Founder wishes that the senior should be preferred in the case of descendants, it must be considered whether he wishes to prefer the senior among equals in rank, or rather, the senior, without any consideration of rank. Question I. "Does it pertain to the legitimate nomination, in favor of the Priest, in this case?" (Aloysius). And to the extent that it is negative. II. "Whether, to whom, and in what manner, the canonical Prebend of St. Christopher should be assigned in this case." RESOLUTION. The Holy Congregation of the Council, after discussion in the meetings held on February 27, 1869, judged it fitting to respond as follows: To I. Negatively. To II. Affirmatively, in favor of the Cleric of Portapuglia, with the conditions expressed in the founding documents. FROM WHICH YOU MAY GATHER: I. In matters of lay patronage (which in law is considered indifferent in comparison to civil entailments), the term "descendants" should be understood to include both males descended from males, and males descended from females, unless these latter are explicitly excluded by irrefutable arguments (1). II. And this applies whether it concerns the active right of nomination, or the passive right of being nominated, since these two rights are often correlative. (1) In the present matter, the defense of the Priest Aloysius was indeed ingenious, but it did not explicitly exclude males descended from females. Furthermore, if it is assumed that males

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descended from females were excluded from the right of patronage, as he himself contended, then the senior himself, who nominated Aloysius, should also be considered excluded from the right of nomination and presentation; and therefore, Aloysius, by reason of quasi-possession, would certainly have caused some damage to the patrons nominating, whose right of nomination could be challenged in another court.

[*Latin ed. p. 652*]

652. OF NOMINATION AND INSTITUTION. III. Those who possess the passive right, if neglected by the nominating patron, can, by their own right, object to any nomination, since they are considered to be nominated by the Founder himself. IV. Furthermore, you should note that the Council of Trent prescribes that no one be received into the canonry of a cathedral church unless he has received sacred orders or is capable of receiving them within the year, thereby restricting the power of the Founders, which they previously possessed, to establish a canonry that would be filled by a simple cleric and appointed at the minimum age. V. The power to nominate a simple cleric, even at the minimum age, to a canonry in a cathedral church, was not directly abolished by the Council of Trent, but rather remains restricted with regard to the election, since the decree prohibits the reception of anyone into the canonry of a cathedral church. VI. In practice, in these cases, this rule is observed: that younger clerics legitimately presented from elsewhere are easily granted the fruits [of the canonry] by the Holy See, with the obligations being fulfilled by another, until they reach the age at which they can both receive sacred orders and serve in the divine offices as a canon (1). VII. Old foundations will find no difficulty in this regard; therefore, no indulgence from the Holy See was required for the cleric Anthony in the present matter. (1) Compare the case that I presented in Volume III, page 395 and following, in which this principle is demonstrated.

[*Latin ed. p. 653*]

653. JURISDICTION. March 21st, August 29th, 1868, and June 26th, 1869. Summary of the case. In the year 1501, Bernardinus Cola of N. established in his will two daughters, Francisca and Catharina, as his heirs. However, if these daughters should die without children, he stipulated: "If the aforementioned daughters and heirs should die without legitimate children, he wished that a chapel be built in the church of St. Peter in the city of N., and that it be endowed with all his goods, and that the same be designated as his heir in said goods, and that a name and title be given to said chapel according to the will of the Executors and Guardians." In this chapel, the testator wished that a priest be chosen and presented from the city of N., and he always wished that the presentation of the priest be made by the Guardians and Executors (namely, Franciscus Ventura and others), unless

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closer relatives of his paternal line should be found. Furthermore, in the absence of said Guardians and Executors, and of the aforementioned relatives, he wished that the presentation of the priest, as above, be made by relatives of the maternal line of the Testator. However, if all of the aforementioned Guardians, Executors, and relatives should be absent, then in that case, he wished and stipulated that said presentation of the priest be made in the same manner as above, by the Rector and clergy of said church of St. Peter, or by the majority of them. Within three years of the Testator's death, his daughters died without children. The Guardians, surnamed Ventura, erected the chapel under the title of St. Bernardinus and presented the first priest. The same right of presentation was exercised by Romulus, their son, in the year 1550, who, lacking male heirs, inherited from his father and had two daughters named Diana and Sextilia. These two sisters presented a new priest in the year 1626; but when a dispute arose regarding the right to appoint (for the Bishop considered that the free collation belonged to him), it was resolved, by mutual agreement, by the decision of the Vicar General, who awarded the right of patronage to Diana and Sextilia, as daughters and universal heirs of Romulus Ventura. After Diana's death, Sextilia added to the endowment of the chapel and, by will dated February 37, 1645, designated Diana as her heir.

[*Latin ed. p. 654*]

654. JURISDICTION. The daughter, Antonia. Hence, the jurisdiction passed to Antonia, and then to the house and family of the Prosperii, as heirs of the aforementioned Antonia of Panotis, heirs of the Venturi, as was declared by the General Vicar in the year 1760. The Prosperii peacefully exercised their rights until the year 1819. However, in that year, only two remained of the family of the Prosperii, namely, John and Joseph Prosperii Lucatelli; the former, by the title of donation or bequest, and the latter, subsequently by an act of donation inter vivos, disposed of the jurisdiction, granting it to the Cleric Sebastian Cella, who, upon the vacancy of the Chapel, took possession of the property and requested canonical institution from the Curia, as executor by bequest and donation of the Prosperii Lucatelli; and he obtained a decree from the Curia with the customary clause "if and in so far as, etc." After the acts were published, Hector, a Regular of the church of St. Peter, opposed the matter before the Curia, claiming the right to name someone, based on the will of Bernardino Gola; however, the controversy remained suspended until the year 1826, when the aforementioned Cella ceded the jurisdiction to the Rector and the church of St. Peter. After the death of the aforementioned Cella, another chaplain was not presented by that Regular clergy, although the obligations of the Chapel had been fulfilled. However, when the same clergy now sought a remedy for the omission, and a certain faculty to alienate property, Philip and Eugenius, brothers

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of the family of the Prosperii Gagliardi, arose, claiming the jurisdiction for themselves, and therefore, they interdicted the proceedings before the acts of the Curia, so that nothing might pass. Thus, a controversy arose. The General Vicar, after examining the case, finally rendered a judgment against the college of clergy, and admitted the jurisdiction in favor of the brothers Prosperii-Gagliardi. The clergy appealed from this judgment to the Sacred Congregation. A concise discussion. We will examine the main points, which have been copiously presented by both sides through their lawyers. DEFENSE OF THE CLERGY. The Defender of the Clergy, stating the principle that the condition of the possessor is better, initially cast some shadows upon the descent of the brothers Prosperii from Diana.

[*Latin ed. p. 655*]

JURISDICTION. 655 Ventura. But the descendants, based on the premise admitted, argued that the matter at hand did not concern patronage by lineage, but rather hereditary patronage, which can freely be transferred to anyone; for when the testator simply wished that the presentation of the chaplain should always be made by the tutors and executors mentioned in the will, he intended nothing other than that the named tutors should hold the patronage, and those who would perpetually represent them, which is the same as saying that the patronage is hereditary. Patronage by lineage would have existed if there were closer relatives in the paternal line of the testator; but since these did not exist, it cannot be argued that one line should give way to another; for nothing prevents the patronage from having a different nature in a different line, according to the teaching of Ancharani, cons. 8, 1, since it does not imply that the patronage is partly by lineage and partly hereditary, as Cardinal De Luca states, disp. 35, n. 20, on patronage. Furthermore, the Defender added that the testator had substituted the tutors with the closest relatives in his maternal line, as well as the Rector and the Clergy of the Church of St. Peter, as if thereby he intended to indicate that the tutors should enjoy the patronage by lineage, whereas such substitutions would never have taken place otherwise; to which the Advocate replied that it is true that no one dies without an heir, and if there is no heir, the Treasury succeeds as heir; however, according to a more accurate opinion, the Treasury is incapable of succeeding to the patronage, as Roía states in Decis. 4, n. 20, before Rezzonico; and therefore, the substitutions established by the testator could have taken place in this case. And if this matter still seemed doubtful, recourse could be had to the most accepted rule, according to which, in case of doubt, hereditary patronage is presumed rather than patronage by lineage; recourse could also be had to the ultimate state of the law concerning patronage, as Pitonius states, disput. eccl. 53, n. q. Furthermore, in the year 1821, Sebastian Ceila obtained canonical institution to the chaplaincy through the cession of the patronage made to him by the brothers Prosperis; which cession could not

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have taken place unless it concerned hereditary patronage; finally, recourse could be had to the observance of two centuries, since in the year 1626, upon the death of Romulo Ventura, who had been considered the patron, the patronage...

[*Latin ed. p. 656*]

656. JURISDICTION. The daughters and heirs, Diana and Sextilia, exercised this jurisdiction; and it was contested whether the daughter of Diana, who could certainly have claimed it along with her mother if it were a matter of lineage, should be admitted to present her case. Ferraris, Bibliotheca Canonica, under the word "Jurisdictio" (Jurisdiction), number 7. This is also confirmed by a decree issued by the Vicar General in the year 1626, which stated that the jurisdiction pertained to the sisters, Diana and Sextilia, as the universal heirs of the aforementioned Romulus Ventura; and this decree is consistent with what subsequently occurred: after the death of these women, Prosperius, both male and female, over the age of one hundred years, presented themselves as heirs, either of Diana and Sextilia Ventura or of Antonia Panoti, the daughter of Diana; and these presentations were confirmed by the Curia; also, in the years 1819 and 1820, the last surviving members of the Prosperia Lucatelli family alienated the jurisdiction, by title of legacy or donation, which subsequently passed to the Church of St. Peter through the means of a conveyance. All of this demonstrates that the jurisdiction was hereditary, and that it was continuously held as such. It cannot be objected that, in some of these acts, it is repeatedly stated that the jurisdiction pertains to the Ventura family or to the Prosperia family; for the Advocate replied that, since it is established that the jurisdiction is hereditary, such statements do not indicate a title, but only the persons who were actually exercising that jurisdiction, as has been repeatedly observed in these matters by the Sacred Rota, specifically in Ravenna, Jurispatronatus, July 4, 1823, before Josouard, number 11. With these points established, the Vicar General considered that the Advocate's opinion should be refuted. However, since the case was to be presented and was presented in the Congregation on March 21, 1868, the Brothers Prosperii Gagliardi requested delays in order to present their claims. Therefore, the Congregation postponed the resolution, following the customary practice of granting delays. In the re-presentation of the case, the Clergy did not present anything further, but the aforementioned Brothers Prosperii presented their allegations, a summary of which is as follows:

DEFENSE OF THE BROTHERS PROSPERII. The Advocate for these Brothers argued that the jurisdiction in question is not hereditary, but rather familial or of lineage, and is therefore the property of the Prosperii,

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as they are descended from the ancient Prosperia and Ventura families.

[*Latin ed. p. 657*]

JURISDICTION. 657, dividing: therefore, the right of patronage could not have been alienated to the detriment of the heirs, who succeed by their own right. However, it was shown that the right of patronage was either familial or pertaining to the gens [clan], from the very words of the testator, when the testator wished that the presentation [of a candidate for a benefice] should always be made by the closest relatives of the paternal line, and, in the absence of these, by the closest relatives of the maternal line, among whom the brothers Prosperius were to be included. But when the testator had looked to the benefit of his gens and family, it was undoubtedly to be understood that the right of patronage was either of the gens or familial, as the authors generally teach. This was confirmed by the alleged observance of three centuries, when such a right of patronage, from the year 1504 until the year 1821, had always been first held by the Ventura family and gens, and then by the Prosperia family descended from it. Such an observance was of such great value that, even if the testamentary documents were lacking, the right of patronage of the gens and the familial right would already manifest itself by force of presumption and prescription, as stated by the Rota, December 2, 1804, page 12, Recent, number 3 and following, in Veli-terna Jurisprudence, June 20, 1858, before De Witten, § 7. To this, the advocate added public reputation, more acts of the episcopal court that supported this, two judgments rendered in the dispute between the parties, the coat of arms of the gens, both of the Ventura family and the Prosperia family, and inscriptions carved on the tombstone and on the walls of the chapel, and other similar things. Since these things were so, and since they were certain in fact and in law, he added that one thing remained to be investigated in the present case, namely, whether the present brothers Prosperius descended from the ancient gens Ventura and Prosperia. Furthermore, it was established that Francis and John Ventura, who erected the chapel in the year 1504, were closer to the testator Bernardino, as declared in a judgment of the court in the year 1626, and that, through women, they ultimately gave rise to the present Prosperius Gagliardi, as shown by a carefully prepared genealogical tree. With these things demonstrated, he argued that the donations of the right of patronage made in the years 1819 and 1820 were invalid, because in the familial and gentilistic right of patronage, as in trusts, the possessors cannot change the laws of the institution to the detriment of posterity: since all those who are called heirs have the right to present [a candidate], independently of hereditary acts.

[*Latin ed. p. 658*]

638. JURISDICTION. They should possess, by their own right, the quality of jurisdiction, and the rights of the patrons should not extend beyond

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their lifetime; therefore, whatever has been done or enacted beyond that, to the detriment of posterity, must be considered entirely ineffective and invalid due to the lack of authority, as stated by the Sacred Roman Rota in Decision 630, page 16, volume 2, recent, number 23, in the case of the Nomination in Fermo, June 20, 1853, before Alberghini, section 5, and in its confirmatory decision of December 16, 1854, before the same, and in many other instances. It cannot be objected that there is a hereditary mention, which sometimes occurs in some documents; for since it is established that the jurisdiction is of a familial and hereditary nature, both from testamentary records and from long-standing, indeed three centuries of, observance, and from many other indications and supporting evidence, the hereditary mention should not be understood in a strict sense as referring to heirs of property, but rather to heirs of blood, since consanguineous successors are also commonly called and considered to be heirs of property. Nor does it matter that those who alienated the jurisdiction in the years 1819 and 1820 were the last surviving male members of the Prosperia family; for, besides the fact that they themselves descended from the female line of the Ventura family, it is known that, as the male line diminishes, the female line is called upon, both from testamentary records and from the traditions of the house and family, which include both male and female relatives, as stated by the Rota in the aforementioned decision, section 3; furthermore, according to the accepted rule, women should always have the right to present a claim after the men, as in other inheritances, unless they are expressly excluded, as stated by Pitonius in *Disputationes Ecclesiasticae*, 4, number 12 and following, and by the Rota in the decision concerning Veliterno, December 14, 1855, before Seraphim, sections 5 and 6; even more so if one considers the observation that cannot be disregarded, as stated by Lotter in *De Re Beneficiaria*, I, 21, number 125, and by Cardinal De Luca in *De Jurispatronatu*, discussion 61, number 10. Having reached this point, the Advocate wrongly claimed that the prescription should be invoked against them, since the jurisdiction is held by those who are called to it by the Testator and who succeed by their own right. But furthermore, he stated that in the present case, the extreme limits of prescription are completely lacking, because he claimed that they lacked a just title, a valid claim, and a legitimate time, which, moreover, he claimed was interrupted by the death of the mother of the present Prosperias, and then by the minority of these individuals who were living under parental authority; therefore, they should be protected by the rule that is traditionally followed, against those who...

[*Latin ed. p. 659*]

JURISDICTION. 659 They are not able to exercise it, prescription does not run; finally, only one thing remains: the administration of the goods of the jurisdiction, which for many years has been retained by the College of

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Clergy, according to a good right; but this differs entirely from the exercise of jurisdiction, as is stated in the document of the Sacred Congregation dated June 22, 1850, §. And this is incorrect. After these and other matters have been extensively discussed, the question to be resolved is: "Whether the judgment of the Episcopal Court should be confirmed or overturned" in this case.

RESOLUTION. The Sacred Congregation of the Council, after hearing the case on August 29, 1868, decided: "The judgment should be confirmed." However, the Advocate for the Clergy requested a new hearing, which was granted, and after further considerations, it was noted that, with regard to prescription, if the mother of the contending brothers had died, the father, whose interest it was to protect the familial rights of others, had survived; the brother of the mother, and her married daughter, Cornelia N., the daughter of the latter who had married the man G. and had offspring, had also survived. However, the case was again presented and discussed before the Sacred Congregation on June 26, 1869, and the following response was given to the question: "Whether we should adhere to or depart from the previous decisions in this case": "Adhere to the previous decisions and even more so."

FROM WHICH THE FOLLOWING ARE UNDERSTOOD:

I. That a jurisdiction which is bequeathed by a testator to a certain person and absolutely belongs to that person and their closest descendants ad infinitum, belongs to all descendants, whether male or female, and their descendants; and for this reason, it is called a familial or gentile jurisdiction.

II. That as long as any person exists who demonstrates their succession from the aforementioned family, although the succession may be very remote, the jurisdiction cannot pass to another, even if that person is second in line.

III. That in no way can the jurisdiction be transferred from the surviving beneficiaries to outsiders; since the surviving beneficiaries do not have ownership of the jurisdiction, but only a quasi-possession of that right, which is not theirs, but is transferred by the will of the testator to those designated.

[*Latin ed. p. 660*]

660. JURISDICTION. IV. Therefore, whatever harm patrons may inflict upon their successors, they cannot harm those successors who have been legitimately called to their position. V. Hence, it is at least difficult for a prescriptive right to arise, since the actions of the predecessors do not inherently harm the successors. FROM THE SACRED CONGREGATION OF RITES, CONCERNING THE MASS OF THE HOLY SPIRIT TO BE CELEBRATED DURING THE JUBILEE YEAR. DECREE: "Concerning the Mass

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of the Holy Spirit, which the Most Holy Pope Pius IX, through Apostolic Letters in the form of a Brief, granted on April 2, of the year 1869, ordering that all cathedral and monastic churches of the City and the World celebrate the customary conventual Mass on any Feria, and concerning the collection to be added daily in the Masses for the same Holy Spirit, the following questions were presented to the Sacred Congregation of Rites: I. Whether the aforementioned votive Mass of the Holy Spirit ought to be sung or read? II. Whether the Gloria and the Creed ought to be added to this Mass? III. Whether this Mass ought to be omitted on the octaves of Easter, Epiphany, Christmas, and Corpus Christi, especially if it is read? IV. At what hour ought this Mass to be celebrated? V. Whether in this Mass, a single prayer or several prayers ought to be recited, as in votive Masses? VI. Whether a burden is imposed upon the Canons or rather upon the Church? VII. In churches, especially monastic churches, in which, considering the circumstances of the times, only one Mass can scarcely be celebrated, what ought to be done? Which ought to be omitted? VIII. Whether the collection for the Holy Spirit ought to be omitted on the days of the first and second class (1)? (1) We are informed that some have raised another question: namely, whether the prayer for the Holy Spirit is that first one, that is, the one found inserted in the Mass of the Holy Spirit.

[*Latin ed. p. 661*]

OF THE MASS OF THE HOLY SPIRIT. 661. These matters, after having been presented by the undersigned Secretary at the meetings of the Ordinary Congregation for Sacred Rites, held on the designated day at the Vatican, and after having heard a prior opinion written and published by types by one of the Masters of the Sacred Ceremonies, the Most Reverend and Illustrious Fathers presiding over the Sacred Rites decided to respond as follows: I. In all Cathedrals and Collegiate Churches where the conventual Mass is sung daily, the Mass of the Holy Spirit must also be sung. In other churches, as designated in the Breviary, this Mass must be read or sung, as the conventual Mass is read or sung. II. In this case, whether the Mass is sung or not, the Gloria and the Creed must be added. III. It is necessary to follow the prescription of the Breviary, therefore, on each weekday of the week, on which there is not a Double of the first or second class, the Mass of the Holy Spirit must be celebrated, even if it is read. IV. It must be sung or read after the Non, and also after all the Masses prescribed by the rubrics on the same day. V. In this case, only one prayer must be said, whether the Mass is sung or not. VI. It is the duty of the Church, and it must be considered as part of the choral service. VII. Nuns are not included. VIII. Negatively, and on feasts of the first class, it must be said with the single conclusion; on feasts of the second class, it must be said with the proper conclusion. And thus they responded. July 8, 1869. After I, the undersigned Secretary, presented the aforementioned matters to the

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Most Holy Lord Pope Pius IX, His Holiness approved the responses of the Sacred Congregation, confirmed them, and ordered them to be observed. July 8, of the same month and year. C. Episc. Portuensis et S. Rufinae CARD. PATRIZI, S. R. C., Prefect. In Place. [Illegible signature]. Concerning the *Veni, Creator Spiritus*, whether the first, which is recited for this Mass, or the second, which is added to the same Mass in the Roman Missal. We can testify, in Rome, without any doubt, that the first is recited: that is, the *Veni, Creator Spiritus*, which is inserted in the Mass of the Holy Spirit, and not the one which is added.

[*Latin ed. p. 662*]

662 OPINIONS OF THE CONSULTOR. We can almost entirely reproduce the opinion of the Consultor, which is of the following tenor. By Pontifical mandate, according to the Apostolic Letters in the form of a Brief dated April 11th of the current year, 1869, in all the Patriarchal, Basilica, and Collegiate churches of this esteemed City, as well as in all the Cathedrals and Collegiate churches throughout the world, and in the churches of each religious family of regular canons, who are obliged to celebrate the conventual Mass, from the first of June of this year until the day on which the ecumenical synod, convened for December 8th, concludes, on each Thursday, provided that it does not coincide with a feast of the first or second class, in addition to the customary conventual Mass, another Divine Sacrifice, according to the rite of the Holy Spirit, must be celebrated, without any obligation of application, and in the other Masses during this time, the Collect of the same Holy Spirit must be added daily. This mandate, which is contained in the aforementioned Apostolic Letters, has given rise to certain doubts, which concern either the manner, or the rite, or the hour of celebration, or the case of omission of the Mass itself, or the Collect, and which have been presented by Bishops of several dioceses, by the secular clergy, and by religious families, not excluding the regular canons. Of these doubts, eight principal ones have been selected, concerning which the Reverend Father, Secretary of this Sacred Congregation, requested my opinion before they were presented to Your Sacred Order for resolution. Gladly accepting this task, I will briefly demonstrate what I think about each one, and I humbly submit my opinion, whatever it may be, to the judgment and wisdom of Your Eminences. Doubt I. Whether the votive Mass of the Holy Spirit should be sung or recited? No one can reasonably question that the votive Mass of the Holy Spirit, recently prescribed, should be celebrated according to the norm of the conventual Mass. Indeed, in the context of the Apostolic Letters, where mention is made of the conventual Mass, and of those who are to attend it...

[*Latin ed. p. 663*]

OPINIONS OF THE CONSULTOR. 663. It is alleged that, apart from

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the single matter of the obligation of application, no other exception is presented, which would indicate a manner of celebrating the Mass of the Holy Spirit different from the rules of conventual Masses. Indeed, how the daily Mass, which is called conventual, is to be celebrated, the Decrees of the Congregation of Sacred Rites, according to the diversity of churches, prescribe a norm that is most suitable for each church, either because of its dignity, or because of the need to serve. For if it concerns cathedrals, because they excel in dignity above other churches, or collegiate churches in which a sufficient number of ministers provides service, the Decrees order that this Mass be sung daily, as can be seen in Urbisvetana, August 3, 1737, ad 11; in the case of the Province of Compostellana, September 27, 1817, ad II; and in Bobien, August 3, 1839, ad I. But if it concerns churches to which families of religious men, or even religious women, are attached, or because their churches have secular clergy inferior to them, or because of a lack of ministers, the Decrees permit, unless another obligation arises, that this Mass be celebrated without singing, as can be seen in the case of the Order of Minor Observants, June 19, 1773; in Lusitana, December 1, 1783, ad I; and in the case of the Religious Order of the Capuchins, December 7, 1844. Therefore, this rule, which is assigned to different churches for the conventual Mass according to the Decrees, will also be applied to the diversity of churches for the votive Mass of the Holy Spirit recently instituted by the Apostolic Brief. Consequently, in all cathedrals, and in collegiate churches, where the conventual Mass is sung daily by law, the Mass of the Holy Spirit must also be sung, either with the assistance of sacred ministers, or without their ministry, according to custom; in churches, however, to which families of both sexes are attached, where the conventual Mass is generally celebrated without singing, the Mass of the Holy Spirit can also be read. Therefore, to the proposed question, I would respond:—In all cathedrals and in collegiate churches, where the conventual Mass is sung daily, the Mass of the Holy Spirit must also be sung; in other churches designated in the Apostolic Brief, this Mass must be read or sung, as the conventual Mass is read or sung.

[*Latin ed. p. 664*]

664 OPINIONS, Book II. Whether the Gloria and Creed should be added to this Mass. The rubrics of the general Missal enumerate two kinds of votive Masses. There are votive Masses, which can be celebrated on any day when the office is not double, except for Sundays and certain other privileged days, at the discretion of the priests, and in which the Gloria and Creed should be omitted, except for the votive Mass of the Blessed Virgin Mary on Saturday, which are called private votive Masses, from the word "votum" broadly understood as the will and desire of the priests, according to Gavanti. There are other votive Masses as well, which can be celebrated on double or greater feasts, but with singing and some solemnity, to which

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the angelic hymn should be added, unless they are celebrated with violet vestments, and the Creed of the Apostles, which, however, are not at the discretion of the priests, but depend on the order of the superior, that is, either the diocesan bishop or the Supreme Pontiff, and are indicated for some grave necessity, or for a cause of the universal Church; and such Masses are called solemn votive Masses for a grave matter or for a public cause of the Church. The rubric of the Missal is clear, which refers to this second kind of votive Masses. Indeed, in chapter VII, concerning the Gloria in excelsis, number 4, it is written: "It is not said in votive Masses... unless the votive Mass is to be said SOLEMNLY FOR A GRAVE MATTER, OR FOR A PUBLIC CAUSE OF THE CHURCH," and in chapter XI, concerning the Creed, number 1, towards the end: "The Creed is said in votive Masses which are celebrated SOLEMNLY FOR A GRAVE MATTER OR FOR A PUBLIC CAUSE OF THE CHURCH." It is clear that the Mass of the Holy Spirit, instituted by the Supreme Pontiff on any Thursday, except only for the feasts of the first and second class, from the aforementioned month of June until the end of the ecumenical synod, belongs to the last kind of votive Masses. For this one will always have a place at the Pontiff's command, even if a double or greater feast occurs, which implicitly indicates that this kind of Mass belongs to that kind which is ordered for votive Masses for a grave matter or for a public cause of the Church. And that it is for a grave matter or for a public cause of the Church, no one can doubt, who knows how important it is to convene the assembly of all bishops under the leadership of the Vicar of Christ.

[*Latin ed. p. 665*]

OF THE CONSULTOR. 665. To define and confirm matters, to restore ecclesiastical discipline, to restrain wicked behavior, and to determine other things that are for the good of the entire Catholic world, for whose happy outcome, besides public prayers, fasts, and visits to churches, this sacred votive Mass of the Holy Spirit is ordered to be celebrated. Therefore, since this divine sacrifice of the Holy Spirit is to be solemnly celebrated for a grave and public matter concerning the Church, the Gloria and the Creed are to be added to it. However, since it was stated in the previous response that in some places this sacred Mass can be celebrated without singing, if, in a particular case, the solemnity is lacking, it seems prudent to consider it as a private votive Mass, and therefore the Gloria and the Creed may be omitted. Therefore, I would answer the question in the affirmative if the Mass is to be sung; otherwise, negatively.

Question: Should this Mass be omitted on the feasts of the Epiphany and of the Nativity, especially if it is read?

III. Regarding the privileged octaves of Easter, the Lord, and the Body of Christ, the answer is: According to the general rubrics of the Missal, title IV, number 3, private votive Masses may be said on any day on which the

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office is not double. From this (as Gavantus rightly notes in this title, at the letter O), it follows that votive Masses are also prohibited on those days on which they are prohibited for a feast of double rank, by the principle of *a fortiori*, namely, within the octaves of the Epiphany, Easter, Pentecost, etc. This is in complete agreement with the Decrees of the Sacred Congregation of Rites, as can be seen in the general Decree of September 28, 1714, and in another of December 22, 1753, in Vilna, number 6, which also includes the octave of the Body of Christ. Solemn votive Masses for a grave matter can be celebrated within the aforementioned octaves, as can be gathered from the Decree of March 27, 1779, in the case of the Order of the Minor Brethren of St. Francis, number 20; where the days on which these Masses are excepted are listed individually, namely, the feasts of the first class, the Sundays of the first class, the Feria of Ashes, and the greater week, the vigil of Pentecost, and the Nativity of the Lord: on all other days, they are permitted. It should be noted that among the permitted days are also the feasts of the second class, as permitted by law. However, the rubrics and the Decrees cited are to be observed, which serve to maintain the general rule.

[*Latin ed. p. 666*]

666. It is asked whether, through Apostolic Letters in the form of a Brief, promulgated on April 1st, granting an exception for the celebration of a votive Mass of the Holy Spirit on each Thursday, this exception is permitted. Therefore, since in this case, one must follow a specific mandate established by the aforementioned Apostolic Letters, rather than a general law, it follows that the answer to the question posed must be: One must adhere to the prescription of the Brief; therefore, on each Thursday, unless there occurs a double of the first or second class, the votive Mass must also be celebrated, even if it is said (i.e., without singing).

Q. At what hour should this Mass be celebrated?

A. The general rubrics of the Missal, title XV, number 5, concerning the hour for celebrating Mass, state: "Votive Masses, because they do not correspond to the office, if solemnly celebrated for a serious matter or for a public cause of the Church with the attendance of the people, are said after None." For these reasons, even when celebrated individually, and especially for the first reason, any votive Mass, whether said or sung, because it does not correspond to the office, must be said after None. This is in accordance with the Decree of the Sacred Congregation of Rites of March 5, 1607, in "Senarum" number 5, which prescribes the celebration of votive Masses after None. Furthermore, because the votive Mass does not correspond to the current office, it is, therefore, called a "Mass ad libitum" (at will); if, on the same day, a conventual Mass is to be sung after None according to the rubrics, the votive Mass of the Holy Spirit must be celebrated after that. Therefore, the answer seems to be: It must be said, or read, after None, and

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also after all the Masses prescribed by the rubrics on the same day.

Q. Is it permissible to recite a single prayer or several prayers in this Mass, as in votive Masses?

A. Just as in the response to the second question, it was noted that there are two types of votive Masses, and each type has its own characteristics, so too does the distinction apply to the prayers to be recited in these Masses. Indeed, private votive Masses, or those celebrated without solemnity, that is, without singing, require three or even more prayers:

[*Latin ed. p. 667*]

CONSULTORIS. 667. Concerning matters of great importance or for the benefit of the Church, only one prayer is permitted. Indeed, the unity of the prayer signifies and expresses solemnity, as Gavantus aptly notes in title IX. The general rubric concerning prayers, no. 14, states that in votive Masses, when solemnly recited for a matter of great importance or for the benefit of the Church, only one prayer is said; but if more are said, as on simple feasts. This rubric is supported by the Decree of the Holy Congregation of Rites of January 29, 1752, in the case of the Order of Discalced Carmelites of the province of Poland, no. 9, which declares that in solemn votive Masses for a matter of great importance, only one prayer should be said. Therefore, I believe it should be concluded by answering: If it is celebrated with singing, only one prayer should be said; otherwise, at least three, as in votive Masses.

Doubt: Is the obligation imposed on the Canons, or rather, on the Church?

R. In the aforementioned Apostolic Brief, which prescribes the celebration of a votive Mass of the Holy Spirit in the patriarchal basilicas, and in all the cathedrals and collegiate churches of this esteemed city, and throughout the world, with these words: "by their Canons," it appears that it is indicated that this Mass should be celebrated by the Canons, as if the others, whatever name they may be called, whether they are Beneficiaries, or Mansionaries, as they are called, or Chaplains, are not obliged to attend this Mass: in one word, the precept expressed in the Apostolic Letters should be considered an obligation imposed only on the Canons, and not on the Church, so that it would not be part of the service of that day. However, the words "by their Canons," which are mentioned in the aforementioned Letters, cannot be taken so strictly as to mean only the Canons. For, since it is certain that many churches, in which there are Chapters of secular clergy, besides the Canons, have others of lower rank serving, who are called Beneficiaries, Mansionaries, or Chaplains, and who are also required to sing, the Apostolic Brief could not have expressed its meaning in a better way than by expressly mentioning the principal, or rather, essential part of the clergy, which is constituted by the Canons; and thus, by showing that

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the entire choral body is required to attend the celebration of this Mass.

[*Latin ed. p. 668*]

668 OPINIONES concerning the new burden imposed upon the Church, and concerning the assistance to be rendered to it, which are expressed by anyone within the aforementioned college. Therefore, the following seems to be the correct response: It is a burden of the Church, and it ought to be considered as part of the choral service.

DOUBT VII. In monasteries, especially those of religious women, in which, due to the circumstances of the times, only one Mass can scarcely be celebrated, what ought to be done? What ought to be omitted?

R. It is certain that religious women, who live within the cloister, and who, according to the rule of their order, are obliged daily to assemble together in the choir to perform the divine office, according to the rubrics, at the third or ninth hour, ought to attend Mass, which is celebrated according to the office of the day, even if without singing, and without the application of the benefits to the benefactors in general. Therefore, this Mass is, for the religious women, like a conventual Mass, to which they are obliged to attend; this is also gathered from the Decree of the Holy Congregation of [Religious] on one day of the month of December, in the year 1844, concerning the Order of Capuchin Monasteries.

Now, since the obligation of the conventual Mass is admitted even for religious women who, like the families of religious men, recite the daily psalms in the choir, the monasteries are included among those groups that are subject to the precept expressly stated in the Apostolic Brief, namely, to celebrate the votive Mass of the Holy Spirit every feria quinta [Thursday].

Given this, concerning the doubt which asks: how ought it to be done in monasteries, which, on the same day, are obliged to attend two Masses, but have only one priest to celebrate? Which Mass ought to be said in this case, and which ought to be omitted? It seems necessary to consider that, among the two laws that must be observed at the same time, one cannot necessarily be fulfilled, and that the one must be observed in practice, whose precepts have greater force.

Indeed, in the case of religious women, who, due to a lack of priests, cannot have both Masses prescribed on the same day, namely, the conventual Mass on the feast day, and the votive Mass of the Holy Spirit, the latter ought to be given precedence, because it is prescribed for a serious matter, and for the public good of the Church, while the former is not supported by these reasons: the conventual Mass is ordered under the common precept, the Mass of the Holy Spirit is ordered extraordinarily.

[*Latin ed. p. 669*]

CONSULTORIS. 669. The term "occasional" is improperly used in this case, as I recently indicated, and it is not generally applicable to benefactors.

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The votive Mass of the Holy Spirit, although itself exempt from the obligation of application, is nevertheless prescribed by a special law, which includes all gatherings, both secular and regular, attached to the choir, without exception. Therefore, I believe that both parts of the question can be answered as follows: In churches that are subject to the circumstances described, instead of the customary Mass at the time of the office, the votive Mass of the Holy Spirit should be recited on each weekday, except for the feasts of the first and second class.

Question: Should the Collect for the Holy Spirit of the second class be omitted on the days of the first class?

Furthermore, since we are dealing with a Collect prescribed by a higher authority for a serious matter, the Sacred Congregation of Rites, in its Decree of September 7, 1816, in Tuden, ordered that such a Collect be recited daily, and in the feasts of the first class, under a single conclusion, and in those of the second class, under its own conclusion; one could also cite another Decree, which pertains to the Collect of the Holy Spirit itself.

If the Sacred Congregation has ruled that, in the case of a feast of the first class, the solemn votive Mass of the Holy Spirit for the convocation of a general chapter of a religious family cannot be sung, the Collect should be added to the solemn Mass of the day under a single conclusion, as was affirmed in a case of the Order of Discalced Carmelites of the province of Colonia on March 27, 1774, at 7. But if this applies to the solemn Mass of a feast of the first class for the special purpose of gathering a particular group, much more so should it be recited, even in private Masses, and for a public cause, which concerns the convocation in the holy city of all bishops throughout the Catholic world for the good of the universal Church.

Although the Sacred Congregation of Rites has, in various Decrees, wished to exempt the feasts of the first class from the Collect prescribed for a serious matter, leaving it to the discretion of the priest in the feasts of the second class, as can be seen in Assisi, May 15, 1819, at 2; in Namur, May 33, 1835, at 3; and in a Decree of the Order of Minor Friars, of April 15, 1853.

[*Latin ed. p. 670*]

670 OPINIONS to 15; however, because in the proposed petitions, perhaps it is not the case that the Collect is omitted in all Masses and in each individual Mass, but rather that it is only a matter of speaking generally about the Collect in Masses. In fact, it is the case that when a Collect is ordered to be added for a serious matter in Masses, the Priests are accustomed to follow the aforementioned Decree of 7 September 1816, so that they do not omit the aforementioned Collect. Furthermore, in the present case, it is a matter of a Collect ordered in all Masses, without any exception whatsoever, as stated in the Apostolic Letters, which alone would be sufficient for no other rule to be able to oppose this precept: it is a Collect

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for a serious and public matter for the cause of the Church, for whose daily recitation the Decree of 7 September 1816 in Tuden is present, which indeed is sufficiently valid in practice (1): there is also another Decree specifically issued regarding the prayer of the Holy Spirit of 27 March 1773. Therefore, it must be concluded that the Collect of the Holy Spirit will never be omitted in this case: and therefore, I believe that the answer to the question should be: No. What has been said, etc. (t) In general, the rule is that obligatory Collects ordered by Superiors, for some serious reason to be said in the Mass, are omitted on feast days of the first class and are left to the discretion of the Priests on feast days of the second class, as is read in the aforementioned Decrees and specifically in Assisi, of 11 May 1819: there had been a question proposed in these words: "Whether the Collect ordered by Superiors should be recited in the Masses of the first and second class." To which the answer was: No, in the Masses of the first class, as the answer was: regarding the Masses of the second class, the Priest may, at his discretion, read or omit the Collect ordered in private Masses; in Conventual and solemn Masses, it must be omitted. This Decree agrees with another ancient edict published in the Resolution of the City regarding doubts of 7 August 1627. The question was: "Whether the prayer 'Deus refugium nostrum' etc., when the Holy Father orders it to be said for a serious reason, should be said even on feast days of the first class." And the Holy Congregation judged: that it should not be said. However, this general rule, which is observed in Rome, admits of exceptions, although rarely. The reason is that the causes for which Collects are ordered are not of the same degree of seriousness: there are universal and very serious causes, there are causes of public necessity, and when these causes are in force, the usual rule of the rite ceases to apply. Indeed, the rite itself requires that, as long as these causes last, the obligatory prayer never cease; especially when the Superior, who knows the seriousness of the causes, orders it individually. This is the meaning of the Decree that is read in the aforementioned Tuden. The question was: "Whether the prayer ordered by a Superior for a matter of public necessity should take place on days of the first and second class: and also: "Whether the aforementioned prayer should be said with a distinct conclusion." To which the Holy Congregation answered: If the prayer is ordered to be said for a serious reason, it will be said in the Masses of the first class with a single conclusion: and in the Masses of the second class with its own conclusion: if.

[*Latin ed. p. 671*]

671 In ROMA, concerning the BEATIFICATION and CANONIZATION of the Venerable Servant of God, Father Angelo a Pas, Priest, of the Order of Friars Minor of the Strict Observance, Reformed. DECREE. Present were the Reverend Father Vincent a lennis, Priest, of the Order of Friars Minor, Reformed, and Postulator of the cause for the Beatification and Canon-

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ization of the Venerable Servant of God, Angelo a Pas, aforementioned. Also present was His Eminence and Reverend Cardinal Andrew Bizzarri, Promoter of this Cause, who proposed the following question in the ordinary meetings of the Congregation for Sacred Rites, held this day in the Vatican: "Should the judgment of the Judge, delegated by His Eminence and Reverend Cardinal, Vicar of the City, concerning the aforementioned cult of the Venerable Servant of God, or concerning the interpretation of the Decrees of Pope Urban VIII, be confirmed in the case and for the purpose in question?" Furthermore, the Most Reverend Fathers, entrusted with safeguarding the sacred rites, having carefully considered all matters, and having heard the Reverend Father Doctor Pietro Minetti, Promoter of the Holy Faith, judged it fitting to respond: "Affirmatively, that is, the judgment should be confirmed." June 8, 1869. "Afterward, a faithful report of the foregoing was made to His Holiness, our Most Holy Pope Pius IX, by me, the undersigned secretary, and His Holiness deigned to consider the Rescript of the Sacred Congregation as entirely valid and to confirm it. June 8, of the same month and year." C. The Bishop of Portuen and S. Rufinae, CARDINAL PATRIZI, S. R. C., Prefect. Regarding the Sign: It is not required for matters of grave importance in the first class of documents; in the second class, it is at the discretion of the Priest. In this Decree, it appears that, under the words "for matters of grave importance," is understood a cause that is not merely serious, but truly grave, as D. Bartolini, Secretary, could say, most grave in comparison to the cause mentioned in the second part of the Decree, which is said not to be grave. For, a grave cause often leads to the inclusion of obligatory prayers in the Mass.

[*Latin ed. p. 672*]

672. CONCERNING THE RELIGIOUS ORDER OF DISCALCED CARMELITES IN FRANCE. DECREE. "Since the Religious of the Discalced Carmelite Order residing in monasteries in Gallia, although they pronounce only simple vows, have obtained, through a Decree of the Sacred Congregation of Bishops and Regular Canons on March 5th of the current year, the communication of all privileges and spiritual graces enjoyed by the Religious of the same Institute who have pronounced solemn vows, hence the Most Reverend Charles Gay, Vicar General of the Bishop of Pictaviensis, inquired whether all priests who will be celebrating the sacred rites in their churches or chapels should enjoy the same privileges, and should conform themselves to the Calendar and the Proper Mass approved by the Holy See. His Holiness, after being informed by the undersigned Secretary of the Sacred Congregation of Rites, having considered the matters presented and, with special grace, has deigned to grant the following privileges: namely, He grants: 1° That the confessors and chaplains devoted to the service of the aforementioned Religious must conform themselves to the aforementioned Calendar and Proper when

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celebrating the Holy Sacrifice of the Mass in their churches or chapels. 2° That other priests celebrating in the aforementioned churches or chapels may conform themselves to the aforementioned Calendar and Proper, with the addition of the condition that the Roman Missal be present in those same churches or chapels for the use of those priests who wish to celebrate with the Roman Missal. All contrary decrees to the contrary notwithstanding. April 15, 1869. o C. The Bishop of Portuaeus, and the Cardinal of Rufinae, PATRIZI, Prefect of the Sacred Congregation. D. Bartolini, Secretary of the Sacred Congregation."

[*Latin ed. p. 673*]

67S EX S, CONGREGATIONE INDULGENTIARUM. DE IEIUNIO PRAESCRIPTO AD LUCRANDUM IUBILAEI INDULGENTIAM. Die 10 Iulii 1869. "Postquam Litterae Apostolicae in forma Brevis die 11 Aprilis 1869 editae sunt, per quas Sanctissimus Dominus Noster Pius PP. IX omnibus fidelibus Indulgentiam Plenariam in forma Iubilaei occasione Concilii Oecumenici concessit, haec Sacra Congregatio Indulgentiarum et SSm. Reliquiarum proposita sunt dubia praesertim circa ieiunia, quae fideles servare debent, ut Indulgentiam huius Iubilaei lucrare valeant. Quibus sedulo perpensis, Sacra Congregatio, benigne annuente Sanctissimo Domino, respondendum censuit prout sequitur. DUBIA ET RESPONSA. I. Iure inconcussa est, operibus alias praeceptis satisfieri non posse obligationi de operibus iniunctis ad acquirendas indulgentias, nisi aliud constet expresse de mente Concedentis; nihilominus pro hoc Iubilaeo oritur dubium, quia in Litteris Apostolicis legitur: "praeter consueta quatuor anni tempora, tribus diebus etiam non continuis, nempe quarta et sexta feria, et sabbato ieiunaverint." Quaestio est, si standum sit regulae generali, ita ut ad effectum lucrandi Indulgentiam omnes dies ieiunii ad quod quisque tenetur, vel dies ieiunii quatuor anni temporum dumtaxat excludantur? R. Affirmative ad primam partem: negative ad secundam. II. An ieiunia quatuor anni temporum, attenta voce illa praeter: ultra tria ieiunia pro Iubilaeo expresse praescripta, habenda sint uti opus iniunctum ad Indulgentiam acquirendam? R. Negative. III. An iis qui aut voto, aut praecepto, uti sunt Franciscales, aut quocumque alio titulo tenentur toto anni tempore ieiunare aliquo die ex diebus praescriptis pro Iubilaeo, suffragetur tale ieiunum ad lucrandam Indulgentiam? R. Affirmative. Acta tom. IV. fase. XLVIII. 43"

[*Latin ed. p. 674*]

674 ON FASTING. IV. Since Religious of St. Francis are obligated to fast from the second day of November until the Nativity of the Lord, the question arises: whether, during this time, they can fulfill both the obligation of the precept and the Jubilee fast by performing a single fast of three prescribed days? Answer: It is permitted, by a special indult from His Ho-

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liness, provided that they use only foods that are considered "esurialia" [foods that cause hunger] for the aforementioned three Jubilee fasts, even if they may have obtained a dispensation from the use of such foods for the aforementioned Lent. V. Should the same be said regarding the Church's Lent for the faithful? Answer: It is permitted, by a special indult from His Holiness, as in the answer to the fourth question, and with the same condition stated therein. VI. Whether the fasts prescribed for the Jubilee must be strictly observed, even with regard to the quality of foods, as are those that must be observed to fulfill the Church's precepts, but whether one can avail oneself of indulgences, if any have been obtained for the Church's fasts? Answer: Affirmative, unless a special indult is obtained, in which the Jubilee fast is also expressly mentioned. VII. If someone obtains an indult to eat meat, even for the Jubilee fasts, does he still observe the law not to mix foods, namely meat with fish? Answer: Affirmative. VIII. Whether those who have not yet reached the age at which they are obligated to fast, nor workers, or others who, for a legitimate reason, are not obligated by the Church to fast, must fast in order to gain the Jubilee Indulgence? Answer: Affirmative. However, if the Confessor judges that they are unable to do so, the Confessor himself can substitute the fast with other pious works. IX. In the Apostolic Letters, it is written "for three days, even not consecutive." The question arises: whether, in this Jubilee, because of these words, the individual days of fasting can be divided into different weeks. Answer: In this Jubilee, affirmative. X. Considering the clause "this time only," the question arises: whether someone who has fallen into censures and reserved cases can be absolved only once, as decreed by Benedict XIV in the Constitution "Inter graviores."

[*Latin ed. p. 675*]

ON FASTING. 673 Or rather, in this Jubilee year, how many times may one be absolved, if he has incurred censures and reserved cases, so that he may participate in the Jubilee?

R. Affirmative to the first part: negative to the second.

X I. Can one who enjoys the privilege of the Bull of Cruciati, by virtue of this title alone, without any other cause, eat meat during the fasts of the Jubilee?

X I I. Can he at least eat eggs and dairy products?

R. To X I and X I I. It is permitted, by a special grant of His Holiness, that those who legitimately enjoy the privilege of the Bull of Cruciati may use only eggs and dairy products during the fasts prescribed for this Jubilee, observing the other forms of ecclesiastical fast.

"Given in Rome, by the Sacred Congregation of Indulgences and Sacred Relics, on the 10th of July, 1869."

"A. CARD. BIZZARRI, Prefect. For the R. P. D.

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Dominicus Sarra, Pro-Substitutus.

FROM THE SECRETARY'S OFFICE.

INDULGENCES GRANTED TO THOSE WHO RECITE THE FOLLOWING PRAYER FOR THE GREEK SCHISMATICS, BY POPE PIUS IX.

For the perpetual memory of the matter.

"It has been explained to Us that Our beloved son, the present General Procurator of the Congregation of Regular Clerks of St. Paul the Decapitated, Barnabit, has taken care to show Us that certain plenary and partial indulgences have already been granted by this Holy See, to be obtained by the faithful who recite a certain pious prayer, written in the Italian language, in honor of the Blessed Virgin Mary, Immaculate, for the conversion of the Greek Schismatics. And since, as the same beloved son has reported to Us, it will be beneficial for the greater good of the faithful and for the salvation of souls, if the aforementioned Indulgences are confirmed, and inasmuch as it is necessary..."

[*Latin ed. p. 676*]

676 APOSTOLIC LETTERS. Moved by paternal solicitude, We deign anew to grant favors; therefore, humble petitions are also presented to Us. We, who are intent on increasing the faith of Christ's faithful, on restoring those who are separated from the flock of Christ, and on ensuring obedience to His Vicar on earth, who are still immersed in the darkness of schism, are disposed to favor such pious requests, and We have willed to grant what follows. Therefore, confident in the mercy of Almighty God and in the authority of the Apostles Peter and Paul, We grant to all and to each Christian of both sexes, who, whether in the Italian language as set forth below, or in any other language, provided that the translation be faithful, shall recite, in honor of the Blessed Virgin Mary, Immaculate, for the conversion of the Greek schismatics, with a contrite heart, the following prayer each day, that on the day they do so, We remit three hundred days from those penitences prescribed to them, or in any other customary form of the Church. Furthermore, to those same Christians who shall recite the aforementioned prayer each day of the month as above, and who, truly penitent and having confessed their sins and received Holy Communion, shall visit any church or public oratory, and there offer devout prayers to God for the concord of Christian princes, for the eradication of heresies, and for the exaltation of the Holy Mother Church, We mercifully grant, in the Lord, a plenary indulgence, once per month, for the remission of all their sins. We also grant that all and each of these indulgences, remissions of sins, and relaxations of penances may also be applied for the benefit of the souls of Christian faithful who, united with God in charity, have departed this life, as a form of suffrage. The prayer, the model of which

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We have ordered to be preserved in the archives of Our Secretariat, is as follows:

"O Virgin Mary, Immaculate, We, Your servants and children of the Holy Roman Catholic Church, filled with confidence in Your powerful protection, humbly beseech You to implore from the Divine Spirit, for the honor and glory of His eternal procession from the Father and the Son, an abundance of His gifts in favor of our misguided brothers, the Greek Schismatics, that enlightened by His vivifying grace, they may return to the bosom of the Catholic Church under the infallible guidance of their first Shepherd and Master, the Supreme Pontiff of Rome, and thus sincerely united with us..."

[*Latin ed. p. 677*]

LETTERS APOSTOLIC. 677. "May those bound by the unbreakable ties of the same faith and the same charity, glorify together with us the Most Holy Trinity through the practice of good works, and at the same time, honor you, O Virgin Mother of God, full of grace, now and for all ages: so be it." (1) This shall be valid, notwithstanding any objections. For the present and for all future times. We decree that, with regard to the present letters, copies thereof, or exemplars even printed by the hand of a public Notary, subscribed and sealed with the seal of a person holding ecclesiastical dignity, shall be held with the same validity as if the present letters themselves were exhibited or shown, and that a copy of these present letters (which, if this is not done, we do not wish to be considered valid) shall be delivered to the Secretariat of the Congregation for Indulgences and Sacred Relics, according to the Decree issued by that same Congregation on the 19th of January, 1726, and approved by His Holiness, Pope Benedict XIV, our predecessor, on the 28th of the same month. Given at Rome, at St. Peter's, under the Fisherman's ring, on the 11th of June, 1859, in the twenty-third year of our pontificate. "N. CARD. PARACCIANI CLARELLI." An authentic copy of these Letters, with the included prayer, was exhibited in the Secretariat of the Holy Congregation for Indulgences, to be kept there, according to the Decree of April 14, 1856. June 16, 1869. Dominic Sarra, Pro-Substitutor. May those enlightened in the womb return to the Catholic Church under the infallible guidance of the Supreme Pastor and Teacher on earth, who is the Roman Pontiff: and thus, sincerely united with us in perpetual faith and in charity, may they glorify the Most Holy Trinity through good works together with us, and at the same time, may they render honor to you, Virgin Mother of God, full of grace, now and for all ages: Amen. (2) Latin Version. O Immaculate Virgin Mary, we, your servants and children of the Holy Catholic Roman Church, having the utmost confidence in your powerful protection, humbly beseech you that you may implore from the Divine Spirit, for the honor and glory of His eternal Procession from the Father and the Son, an abundance of the same gifts for our brothers, the

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Greek schismatics, that the vivifying grace may...

[*Latin ed. p. 678*]

678 APOSTOLIC LETTERS. INDULGENCES GRANTED TO THOSE WHO RECITE THE FOLLOWING PRAYER IN HONOR OF SAINT ANNE. POPE PIUS X. For the perpetual memory of this matter. "The most devoted daughter in Christ, Mary Henrietta, as she is called, Superior General of the Religious Sisters of Saint Anne of Providence, of the City of Turin, has taken the initiative to request that, in order to increase devotion to Saint Anne, the Mother of the Divine Mother of God Mary, in the hearts of the faithful, We might deign to open the treasures of Apostolic benevolence, so that, by reciting a certain prayer in honor of the same Saint Anne, composed in the Italian language, they might obtain certain indulgences. We, readily complying with such pious desires, and confident in the mercy of Almighty God, and in the authority of the Apostles Peter and Paul, grant to all and each of the faithful of both sexes, who shall recite the aforementioned prayer, which begins: "O blessed among mothers, glorious Saint Anne, etc.," and a copy of which We order to be kept in the archive of Our Secretariat, at least with a contrite heart, devoutly, on any given day, We grant that, on the day they do so, fifty days of the penitences prescribed to them, or of any other debts, shall be remitted, in the usual form of the Church; and We also grant that these remissions of penances may also be applied for the benefit of the souls of the faithful who, united with God in charity, have departed from this life, as a form of suffrage. This applies to all, notwithstanding any objections. These present grants are valid for the present and for all future times. We decree that these present Letters, or even printed copies thereof, shall have the same force and effect as if the original Letters were presented, provided they are signed by the hand of a public notary and sealed with the seal of a person holding an ecclesiastical office. We also order that a copy of these presents (for if this is not done, We do not wish them to be considered valid) be sent to the Secretariat of the Congregation for Indulgences and Sacred Relics, according to the Decree of that Congregation dated the 19th of January."

[*Latin ed. p. 679*]

APOSTOLIC LETTERS. MDCCLVI. 679, issued and approved by Our Most Holy Pope Benedict XIV, Our Predecessor, on the twenty-eighth day of the aforementioned month. "Given in Rome, at St. Peter's, under the Fisherman's Ring, on the fourth day of June, MDCCCLXIX. In the twenty-third year of Our Pontificate. N. CARD. PARACCIANI CLARELLI."

The prayer, indicated in Italian, is as follows:

"PRAYER IN HONOR OF ST. ANNA, MOTHER OF THE MOST HOLY VIRGIN.

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"O blessed Anna, among mothers obedient to you, glorious election, and most holy Mary, to whom you gave birth, I admire the sublime rank to which you were raised, and the graces with which God adorned you! As Mother of the Virgin, I offer myself to you, that through you I may more effectively honor Jesus, love you, and dedicate myself to your holy protection. I consecrate my entire life to you, as a humble offering of my devotion. Obtain for me, that my life may always pass in holiness and be worthy of Paradise. Amen."

DECREE: "Nothing prevents the aforementioned prayer, having been revised and corrected by the Reverend Lord Assessor of the Congregation of Sacred Rites, from being recited in the manner in which it is presented in the above example, even in ecclesiastical functions, provided that this is done outside of the Office and the Mass. May 4, 1869. D. RARTOLINI S. R. C. SECRETARIUS."

"A copy of the aforementioned letter, with the attached prayer, has been exhibited in the Secretariat of the Sacred Congregation of Indulgences, to be kept there in accordance with the Decree of April 14, 1856. June 12, 1869. Dominus Sarra, Pro-Substitulus."

"(1) The aforementioned prayer, in Latin, is as follows:

"O glorious and blessed Anna among mothers, holy one who had as your daughter the very Mother of God, to whom you were most obedient, I admire the sublime rank to which you were raised, and the graces with which God aided you! To the most holy Virgin, I offer myself so that I may more effectively honor you, love you, and dedicate myself to your protection. As a most humble offering of my devotion, I consecrate my entire life to Jesus, Mary, and to you. Obtain for me that my life may always pass in holiness and be worthy of Paradise. Amen."

[*Latin ed. p. 680*]

680 FROM THE CONSISTORY ACTS, FROM THE CONSISTORY PROPOSITIONS. On June 25, 1869. The Most Holy Father held a secret Consistory on June 25 in the Vatican buildings. After the Allocution which we presented above on page 641, the following churches were proposed: THE PATRIARCHAL CHURCH OF ANTIOCH, vacant in the territories of the infidels due to the death of the Most Reverend Charles, the last Patriarch, who died in the Roman curia. For this, the Most Holy Father promoted the Reverend Father Paul Brunoni, until now the Archbishop of Taron, who, although he cannot accede to the Church assigned to him, since it is held by the infidels, nevertheless, as Apostolic Vicar of Aleppo and successively of Constantinople, and also as Patriarchal Apostolic Vicar for the Latins and simultaneously Apostolic Delegate for the Orientals, he has diligently performed all pastoral duties. Antioch, once a glorious and primary city of Syria and the Seat of the Princes of the Apostles, situated on the Orontes River, is still miserably subjected to the yoke of

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the infidels. THE ARCHIEPISCOPAL CHURCH OF NICEA, vacant due to the assignment of the presbyteral title of Saints Marcellinus and Peter to the Most Eminent and Reverend Lord Joseph, Cardinal Berardi. For this, the Most Holy Father promoted the Reverend Seraphinus Vannulelli, a priest of the Praenestine diocese, who, having renounced his doctorate in Philosophy, Theology, and both Laws, while engaged in ecclesiastical studies at the esteemed Capranica College of the City, was later chosen as a Professor of Sacred Theology in the Vatican Seminary and was granted a benefice in that Patriarchal Basilica, and he has diligently performed the duties of Auditor with the Apostolic Nuncios, both in Mexico and in Bavaria. Nicea, an illustrious city of Bithynia in Asia Minor, near the Ascania marsh, and more famous because of the first ecumenical council held there against the condemned Arian heresy, is still miserably held under the yoke of the infidels. THE CATHEDRAL CHURCH OF QUINQUECCLESIEN, vacant due to the death of the Most Reverend George Girk, the last Bishop, who died outside the Roman curia. For this, the Most Holy Father promoted the Reverend Sigismund Kovács, a priest of the diocese of Sabariensis, by the nomination of His Imperial and Apostolic Majesty, Francis Joseph I, Emperor of Austria, King of Bohemia and Hungary. The same priest, having been awarded a doctorate in sacred theology, has excelled in the performance of ecclesiastical functions: having performed the duties of Prefect in the Pestiens Seminary and as Professor in that university, he was made Secretary, Notary, and Advisor to the Episcopal Curia, and Director of the Chancery of Weszprém. He himself, having renounced the position of Canon in the Cathedral of St. Peter in Bodrogh-Monostor, and the office of Archdeacon of Simighien, and as Prefect of the Royal Table.

[*Latin ed. p. 681*]

FROM THE CONSISTORY ACTS. The city of Quinquecclesia, in Lower Hungary, within the County of Baranya, situated at the foot of the Mecsek mountain, is built on a site of approximately one square mile, containing over one thousand houses, and is inhabited by nearly twelve thousand Catholic citizens, under the temporal dominion of the aforementioned Most Serene Emperor and King. The Cathedral Church, of solid and elegant construction, bears the title of Saint Peter the Apostle, and is a suffragan of the Archbishop of Strigonium. Its Chapter numbers ten canons, including a theologian and a penitentiary, and four dignitaries (of whom the first, after the Pontifical, is the Major Prefect), as well as other priests and clerics serving in the ministry. The pastoral care of souls is exercised in the Cathedral, where there is a baptismal font, etc., and among the relics of the saints, the body of Saint Faustinus and the skull of Saint Vincent are reverently preserved. There are three other parish churches in the city of Quinquecclesia, each with a baptismal font, three monasteries

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for men and two for women, a hospital, and a seminary; however, a house of piety is lacking. The diocese extends through the Counties of Baranya, Tolna, Sümeghy, and Verö, encompassing numerous towns and places.

THE CATHEDRAL CHURCH OF MAGNO-VARADIN, formerly vacant due to the voluntary resignation of the Reverend Father Francis Szaniszlo, has been gladly received into the hands of HIS HOLINESS, and by HIM has been accepted; to it, HIS HOLINESS has appointed the Reverend Stephen Lipovniczky, a priest of the Archdiocese of Strigonium, for the nomination of Saint Charles Joseph I, Emperor of Austria, King of Bohemia and Hungary, the Apostle. Magno-Varadin, a city in the County of Bihar, in Hungary, built on the right bank of the river Christ, has a circumference of approximately one mile, contains one thousand houses, and is inhabited by seven thousand or more faithful citizens, under the temporal dominion of the same Most Serene Emperor and King. The Cathedral Church, of solid construction, bears the title of the Blessed Virgin Mary, assumed into Heaven, and is a suffragan of the Archbishop of Colocza. Its Chapter numbers sixteen canons, including a theologian and a penitentiary, of whom the first four are dignitaries, and the Major Prefect follows the Pontifical dignity; there are also twenty or more priests, and numerous clerics serving in the ministry. The pastoral care of souls is not exercised in the Cathedral, although there is a baptismal font and a double sacristy, etc., and among the relics of the saints, a notable part of the skull of Saint Ladislaus, King of Hungary, a most devout confessor, is preserved. There are three parish churches in the city of Magno-Varadin, each with a baptismal font, three monasteries for men and two for women, a hospital, and a seminary; however, a house of piety is lacking. The diocese extends through approximately five counties, encompassing sixty parishes and more than six hundred fifty subsidiary locations.

THE CATHEDRAL CHURCH OF SONORA, in the Mexican territory of America, was previously vacant due to the transfer of the Reverend Father Peter Loza to the Metropolitan See of Guadalajara; for the Reverend Gil Alaman, having been appointed Prefect of the same Church in a secret Consistory on June 22nd of the preceding year, willingly and gladly relinquished it into the hands of HIS HOLINESS, before undertaking the office of consecration; to it, HIS HOLINESS has appointed the Reverend Joseph of Jesus and Mary Vriarle, a priest of the diocese of Sonora, who was Rector of the Seminary of Sonora, and later, Vicar General, and now, moreover...

[*Latin ed. p. 682*]

682 FROM THE CONSISTORY ACTS. By Apostolic authority, the Capitular Vicar has hitherto resigned. The city of Sonora, whose Episcopal See is located in the city of Arispe, formerly Culiacan, situated in the territory of Mexico in North America, and built on a hill, is small, and contains approximately one thousand Catholic inhabitants. The Cathedral Church

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boasts the title of the Assumption of the Most Blessed Virgin Mary, and is a suffragan of the Archbishop of Guadalajara. Due to a lack of priests, its Chapter has not yet been established, and only a parish priest cares for souls in the Cathedral, where there is a baptismal font, the only one in the city, and a sacristy suitably equipped with sacred furnishings for the performance of divine services and pontifical ceremonies, etc. The Episcopal palace has not yet been erected, and the Bishop resides in a dwelling maintained at the expense of the government. The revenues recorded in the Treasury Books for Florenos 33 amount to approximately six thousand Roman scudi. No other parish church, or collegiate church, is found in the city of Sonora, nor a monastery, nor a house of mercy, but there is a pious institution, a lay society, a hospital, and a seminary. The extent of the diocese is very wide, encompassing two hundred or more locations.

THE CATHEDRAL CHURCH OF SAINT ALOYSIUS OF POTOSI. In the territory of Mexico in North America, vacant due to the death of the Most Reverend Peter Baraias, the last Bishop of that See, who died outside the Roman Curia: the Most Holy Father appointed the Reverend Emmanuel de Conde, a priest of Saint Aloysius of Potosi, to that church. He had been granted a license in sacred theology, and had commendably served in ecclesiastical functions as General Vicar and then as Capitular Vicar, and had resigned from the position of Canon Lector in the Cathedral itself. The city of Saint Aloysius of Potosi is located in the extensive Mexican region, and especially in the province of Michoacan, in a pleasant valley, with a healthy climate, and with frequent commerce; it contains approximately seventy-five thousand inhabitants who profess the Catholic religion. The Cathedral Church is large and of a magnificent structure, and boasts the title of the Nativity of the Most Blessed Virgin Mary, and is a suffragan of the Archbishop of Michoacan. Its Chapter includes three dignitaries (of whom the first, after the pontifical office, is the Deanery), five Canons, including a theologian and a penitentiary, and several beneficed and chaplain priests, who, along with the clergy, work for the benefit of the divine cause. A parish priest cares for souls in the Cathedral, where there is a baptismal font, the only one in the city, and a sacristy, etc. Eleven other churches are found in the city of Saint Aloysius of Potosi, without a parish status and without a baptismal font, as well as some religious houses and lay societies, and a seminary; a house of mercy is lacking. The extent of the diocese is very wide, encompassing eleven states and one hundred parishes.

THE CATHEDRAL CHURCH OF IBARREN. In the Ecuadorian territory, vacant due to the transfer of the Reverend Father Joseph Ignatius Checa to the metropolitan See of Quito: to that See, the Most Holy Father promoted the Reverend Anthony Thomas Yturralde, a priest of the Archdiocese of Quito, who, in both civil and canon law, diligently applies himself to ecclesiastical functions: he resigned from the position of parish priest of the urban church of Saint Roch, and has hitherto held the dignity

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of Primicerius, commonly called Chantre, in the metropolitan See of Quito. Ibarra is a city in Colombia, in the province of Imbabura, in the Ecuadorian territory.

[*Latin ed. p. 683*]

FROM THE CONSISTORY ACTS. Situated in a fertile valley, with a healthy climate, it is inhabited by approximately three to four thousand Catholic citizens. The Cathedral, dedicated to the Archangel St. Michael, has collapsed due to an earthquake, and until it is rebuilt, divine services are held in another church; the Archbishop of Quito provides assistance. Its Chapter consists of twelve members, including a theological and penitential prebend, canons, among whom the first in rank after the pontifical dignity is the Dean, and the second is the Archdeacon, to which six benefices must be added according to the law of its establishment, as well as beneficed or prebendal stipendiaries and chaplains serving in divine offices. The Chapter has habitual care of souls, which is administered by the Canon-Parish Priest in the church, which has a baptismal font. A residence for the Bishop is still desired by the governing authority, and in the meantime, the Bishop resides in a house provided for him. Only one parish church is located in the city of Ibarra, and a seminary has been established; before the earthquake, there were four monasteries for men and two for women: but a house of piety is desired. The extent of the diocese is very wide and encompasses twenty locations.

THE EPISCOPAL CHURCH OF TIBERIAS. Vacant under the Archbishop of Petra, in lands of infidels, due to the death of the Very Reverend Rodulphus Thysebaert, the last Bishop of that see: the Most Holy Father promoted the Reverend Doctor Alexander Valsecchi, a priest from Bergamo, to that position, who, being deeply devoted to ecclesiastical duties and having long been engaged in the care of souls, successively presided over several parishes in that diocese; he was also Rector of the Bergomense college and served as a Canon Pro-Vicar General in the cathedral church. The city of Tiberias, in Palestine, located on the lake of that name in Galilee, known for its sacred sites, is still miserably subject to the yoke of the infidels.

THE EPISCOPAL CHURCH OF HIMERIA. Vacant under the Archbishop of Edessa, in lands of infidels, due to the death of the Very Reverend Ludovicus Silvestri de la Chatre, Bishop of that see, who died outside the Roman curia: the Most Holy Father promoted the Reverend Father Joseph Michael Aristegui, a priest of St. James of Chile, to that position, who, being deeply devoted to sacred duties, was appointed Defender of marriages and of religious professions, and was formerly Dean of the metropolitan church of Chile and General Vicar, and has been chosen among the Domestic Prelates of the Most Holy Father. The city of Himeria, in Mesopotamia, in Osrhoene, is still miserably subject to the yoke of the

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infidels.

After these matters, the Most Holy Father announced the elections already mandated for execution by the Holy Congregation of Propaganda Fide, from the last Consistory to the present one, by which he conferred the Archiepiscopal Church of Amasien, in lands of infidels, upon the Reverend Father John Baptist Pompallier, who resigned from the church of Auckland in New Zealand; the Episcopal Church of Philippopolis, in lands of infidels, upon the Reverend Felix Ridel, from the Seminary of Foreign Missions, Apostolic Vicar in Korea; the Episcopal Church of Camacense, in partibus, upon the Reverend Peter Ewjik, of the Order of Preachers, Apostolic Vicar in Curaçao; and the Episcopal Church of Eucarpian, in partibus, upon the Reverend Charles Delmonte, of the Congregation of Missions, Apostolic Vicar in Abyssinia.

[*Latin ed. p. 684*]

684 SUMMARY OF THE EVENTS CONTAINED IN THIS FOURTH VOLUME. SOLEMN ACTS. The most solemn Apostolic Letters of the Roman Pontiff, by which it is declared that an ecumenical council is to be held in Rome and begun on the feast of the Immaculate Conception of the Virgin Mother of God in the year 1869. 3. The Apostolic Letters of His Holiness Pope Pius IX to all the Bishops of the Eastern Rites Churches who are not in communion with the Apostolic See, by which they are invited to the Ecumenical Council. . . • 129. Also, to all Protestants and other non-Catholics, who are earnestly beseeched with all charity to seriously consider whether they follow the path prescribed by Christ the Lord. 131. Apostolic Letters in the form of a Brief, by which to all the faithful of Christ is granted a plenary indulgence in the form of a jubilee, for the cause of the ecumenical council. S02. Address given in a secret Consistory on June 22, 1868, in which the most grievous sorrows were deplored by which the Catholic Church is vexed in the Austrian Empire. 10. Address given in a secret Consistory on June 23, 1869, in which the law of immunity and liberty adverse to the Church, issued by the Subalpine Government concerning the subjecting of clerics to military investigation, is condemned, and the damages inflicted upon Religion in the Austrian Empire and the Kingdom of Hungary, as well as in the Kingdom of Poland and Spain, are lamented. . . 641. Apostolic Letters in the form of a Brief, by which the obstinate Presbyterian, Cyrinus Rinaldi, was excommunicated by name, who dared to exercise the jurisdiction of the already abolished tribunal of the Monarchy, so called, in Sicily. 118. Apostolic Letters in the form of a Brief, by which, while celebrating the fiftieth anniversary of his priesthood, and offering devotion and obedience to the common Father, to the faithful who are present, a plenary indulgence for sins was granted on April 11, 1869. 443. ACTS OF THE CONSISTORY. Concerning the secret Consistory held on June 22, 1868.

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. . page 112 and page 222. Concerning the secret Consistory held on September 24, 1868. 223. Concerning the secret Consistory held on June 25, 1869. 680. ECCLESIASTICAL TERRITORIES, WHICH ARE NOTED HEREIN IN THIS VOLUME WITH A BRIEF DESCRIPTION. From the Pontifical Jurisdiction: Sabina. 112. Cometan, and Centumcellarum. . . 225. From the Kingdom of Spain: Caurien. . 226. Oveten. 113. Canarien. 114. Malcitana. 113. From Hungary: Quinquecclesien. 680. Magno-Varadien. . . . . 681.

[*Latin ed. p. 685*]

SUMMARY OF ACTIONS. FROM THE HOLY CONGREGATION OF THE INDEX. From Dalmatia, Cathariei) 685.114 From the Island of Melitensi (Malta). 226 From the Russian Empire, Chelmen 222 From the Mexican territory, De Guadalaxara 116 From Durando 115 From Queretaro 117 From Antequera 223 From Sonora 223 and 681 Of St. Aloysius of Potosiensis 682 From Brazil, St. Sebastian of Fluminis Ianuarii. . 227 From the equatorial territory, Ibarren 682 From the rest of South America, De Pace 227, Coren 115 From North America, Lucaten 116 FROM THE SECRETARY OF BREVES. In addition to the Apostolic Letters in the form of Breves, as judged above, the following are included: Apostolic Letters by which certain prayers are granted indulgences, which are called the Apostolic Crown. . 576 Apostolic Letters by which certain prayers are granted indulgences for the return of schismatics to Catholic unity. 675 Apostolic Letters by which certain prayers are granted indulgences in honor of St. Anne. 678 FROM THE HOLY CONGREGATION OF THE SUPREME AND ROYAL INQUISITION. Decrees concerning the complete sacramental Confession that must be required of heretics who, upon returning to the bosom of the Catholic Church, are rebaptized. . . 302 Four Decrees prohibiting certain books III 330, 507, 615 FROM THE HOLY CONGREGATION OF THE COUNCIL. Concerning the provision, in which it is inquired whether a certain portion of wine, which used to be given to a certain Archdeacon above the other Canons, should be provided, if, due to an accidental circumstance, wine is lacking. 33 Concerning Donations to a pious cause, in which the principle is instilled that the will of the pious donor cannot be changed for the better. 36 Concerning Missal offerings, in which it is inquired when a portion of the larger stipend can be retained by the one who celebrates the Masses, and when it cannot. . 39 Concerning Marriage, which was contracted, or at least under a condition contrary to the substance of marriage. . . . 65 Concerning a pension which was imposed by a Bishop on a certain Dignitary, to whom the pension was due before the Dignitary took possession of the dignity. 76 Concerning parochial goods. . . 78 Concerning Reintegration, in which the case is discussed of a certain immovable French parish priest, who was deprived of his parish after he disobeyed the Decrees of the Curia. .

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. . 135 Concerning the Service of the Choir, in which it is discussed the transfer of ecclesiastical offices in a certain temple, prescribed in another temple. 148 Concerning the rights of precedence and voice in the Chapter, in which it is inquired whether two Canons, who were deprived of their positions in the erection of the Canonry, would have the same rights. . . 177 Concerning Marriage, in which the case is discussed of a dispensation concerning a marriage already celebrated, based on the head of impotence. 190 Concerning permission to marry, which was granted to a man who had previously experienced impotence. 198 Concerning Immission and expulsion, in which it is discussed the expulsion of someone from the possession of a lay chaplaincy. . . 199 Concerning Marriage, in which the case is discussed of a marriage.

[*Latin ed. p. 686*]

6S6 SUMMARY OF ACTIONS. I admonish concerning a fraud contracted before the parish priest, by the efforts of the Garibaldi man. 241 Concerning the Celebration of Masses, in which is discussed the power of prohibiting the celebration of Masses in towns and villages before the parish Mass is celebrated. . . 230 Concerning the Reformation of the Chapter's statutes, in which is discussed the obligation of Canons to personally chant the entire Divine Office, unless a legitimate limitation is demonstrated. . . . . 258 Concerning Dismemberment and Compensation, in which the case is discussed of a parish that has been dismembered, even if the parish priest opposed the dismemberment and appealed to secular authority. . . . . 264 Concerning Marriage, in which the case is discussed of the license that the Curia can grant to parish priests to assist in the celebration of marriage after an inquiry has been made into the freedom of the betrothed; whether this license suffices in place of the domicile. . . 289 Concerning the Service of the Choir, in which is discussed the obligation of the Canons during the season of Advent. 301 Concerning the Reposition of a Decree, in which is discussed the revocation of an episcopal decree by which certain benefits were established for those negligent in their office. 306 Concerning a Rescript, in which is discussed the collection of choral distributions, when a Canon is absent from the Chapter due to fear of unjust imprisonment. 309 Concerning the Revocation of an Indult, which was not obtained through deception or stealth. 313 Concerning a Canonry, in which is discussed whether an honorary Canon can fulfill the duties of another Canon, pertaining to the common offices of a Canonry. . . 316 Concerning Jubilation, in which is discussed the compensation for faults committed previously, so that the Canon can celebrate a jubilee at the time of compensation. 318 Concerning Nomination and Institution, in which several questions were raised, both concerning civil laws that do not have ecclesiastical validity, and concerning the rights of Regular Canons

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who have been granted an indult of secularization and live outside the cloister, and concerning the subrogation of ecclesiastical property. . . . . 353 Concerning Marriage, regarding a dispensation for impotence and alienation of mind. 374 Concerning a Benefice, in which is discussed the appropriate time for appealing and the penalty to be imposed on clerics who do not maintain the habit and tonsure. . . . . 378 Concerning a Canonry, in which is discussed the retention of possession by a Canon who has been disturbed in his possession by a legal action. 383 Concerning the Incompatibility of Benefices, regarding absolution and dispensation, in which is discussed the case of several parishes that, according to the frequent and ancient custom, were united to the cathedral chapter, and which were administered by vicars, and the compatibility of a canonry with the office of vicars is discussed; regarding the power of the Bishop to make temporary vicars permanent; regarding the appropriate increase in compensation, and other matters. 401 Concerning the Deputation of the Curate's Economus, in which is discussed the right granted to Bishops by the Council of Trent to immediately appoint an economus in any vacant parish, even if the habitual care of the parish remains with the Chapter. 423 Concerning a Dispensation from Irregularity, in which is discussed the case of a person who, due to a severe eye defect, requested a change in the recitation of the Divine Office to another pious exercise, and the celebration of Masses as a votive offering. 428 Concerning the Translation of a pious legacy to another church, a translation which was not granted, even though it had been most insistently requested for the third time. . . 431 Concerning Marriage, the cause being force and fear, which is declared to be null. . . 513 Concerning the Compensation of Expenses and the Payment of a Pension, in which is primarily discussed the pension imposed on a parish benefice, payable in favor of another parish, under the condition that it ceases as soon as the income increases. . . 523

[*Latin ed. p. 687*]

SUMMARY OF ACTIONS. Regarding the obligations of Masses, which had been reduced by a secret decree, to which the long-standing practice does not conform... 528. Conventual Masses, the celebration and application of which falls upon all those who hold choral benefices... 531. Decree concerning the retention of a portion of the stipend for Masses for pious purposes... 537. Administration of the Sacraments and Funerals, in which certain rights against the local parish priest are stipulated for the honorary canons... 577. Concerning the voice in the chapter and stall in the choir, in which are discussed the rights that may pertain to the honorary canons... 579. Election of the Canon Penitentiary, in which is discussed the special right that exists in Sar Digne-les-Bains in the election of the Penitentiary in the case where Pontifical Reservation is in force, which right, however, ceases when the episcopal see is vacant... 586. Irregularity, in

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which is discussed the promotion to the Orders, and it is inquired whether one should be considered irregular... 593. Nomination and Institution, in which it is inquired whether a certain patronage right was only familial or also cognatic, and furthermore, it is inquired about the qualities prescribed by law for obtaining a canonry in the cathedral church... 643. Patronage, in which it is debated whether a certain patronage right was only familial or hereditary, so that it could be transferred to others outside the family... 653. FROM THE SACRED CONGREGATION OF BISHOPS AND REGULARS. Translation and Suspension, in which is discussed the case of a parish priest in Sabandja Su, who was transferred by the Bishop to another parish, which case sheds light on such frequent questions in France due to a particular discipline... 13. Montis Frumentarii, in which case 687 is discussed the interest that charitable institutions can demand for the erection of a piety fund in any diocese, without a penalty... 27. Regarding reclamations against the Bishop's dispositions, in which case is inquired about the power of the Ordinary to suppress pious societies... 81. Emphyteusis, in which case is discussed what happens if someone builds on another's land by their own initiative... 93. Regarding the Pertinence of the Price, in which case is defined whether the price from an extraordinary excavation of minerals on land possessed by a beneficiary pertains to the beneficiary or rather to the benefice itself... 165. Decrees of St. Visitation and Retention, in which is discussed the obligation of satisfying the Legates of Masses by the church which undertakes and administers the legates, even though the revenues from the neglected administration are not received... 205. Concord, in which is discussed a transaction to be approved regarding pious legates, which the church could not recover through a civil action... 276. Suspension and distribution, in which is discussed a canon who was suspended by the Bishop and who, having sought justice for the injustice of the suspension, inquired about the daily distributions and other emoluments during his absence from the choir... 433. Institution, in which it is inquired whether a canonical institution in a benefice can be denied when a cleric presented for it is accused of a public crime... 438. Fideicommiss and Legates of Masses, in which is discussed goods perpetually obligated for the security of certain Masses, and it is debated whether these goods are bona fideicommissaria, or rather dowries of a chapel, in order to alienate them by the force of civil laws... 545. Renunciation, in which is discussed a parish resigned by the parish priest for fear of a certain scandal, which the parish priest later unsuccessfully attempted to reclaim... 596. Order of Carmelites, or Decree.

[*Latin ed. p. 688*]

688 SUMMARY OF ACTS. Concerning the extension of spiritual graces to the Gallic monasteries of the Sisters of Carmel, who emit simple vows.

602 FROM THE HOLY CONGREGATION FOR RITES. A general decree, in which the question is defined, whether the Holy Communion can be

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given to the faithful in Masses for the Dead, by opening the tabernacle, even before and after a Mass celebrated in black vestments.

42 Salten, or Decree, by which certain representations made on Holy Thursday, to signify the Lord's burial, are to be eliminated.

152 In Vienna. Concerning the beatification and canonization of the Venerable Servant of God, Clement Mary Hofbauer, Priest, of the Congregation of the Most Holy Redeemer, in which the Apostolic process concerning his sanctity is discussed in Vienna.

159 In Albania, or Priverna. Concerning the introduction of the cause of the Servant of God, Father Dominic Anthony of the City, Priest of the Order of Minor Friars of Saint Francis, Capuchin, in which his life is outlined.

213 In Naples, concerning the validity and relevance of the Apostolic process concerning the fame of sanctity, etc., of the Venerable Servant of God, Michael the Angel, a lay brother of the Order of Minor Friars of Saint Francis, of stricter observance, of Saint Peter of Alcantera.

215 In Bergamo and Brescia. Concerning the public cult to be rendered to the Servant of God, Gwalia, of the Order of Preachers, by the Bishop of Brescia.

216 In Andegaven. Concerning the cult to be rendered to Saint Reginald, the Hermit.

218 Decree concerning the process to be carried out and the first opinion to be given by the Ordinary in the causes of Servants of God, according to the decree of Urban VIII.

320 Decree of the City and of the World, by which the Office and Mass of Saint Paul from the Cross are extended to the entire Church.

387 Of the Cistercian Order, concerning the legitimacy of the Cistercian Breviary, in which many decrees and Apostolic letters are presented, which refer to the changes that arose after the revision of the Breviary made by Saint Pius V.

465 Of the Order of Preachers, concerning the decree by which the Brothers of the Order of Preachers are granted the faculty of celebrating Mass according to the calendar of the churches of the secular clergy, to which they have access for any reason.

500 Of the Carthusian Order, concerning the decree of confirmation of the cult rendered from time immemorial to the Servant of God, Beatrice of Ornacieux, concerning whose cause information is given.

539 In Rome. Concerning the beatification and canonization of the Venerable Servant of God, Anna Maria Taigi, concerning the doubt of the cult not being exhibited.

543 In Naples or Rome. Concerning the decree of beatification and canonization of the Venerable Servant of God, Father John Baptist of Burgundy, Priest, of the Order of Minor Friars of Saint Francis, of stricter observance,

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concerning the retreat of Saint Bonaventure from the city, concerning the introduction of the cause.

544 Concerning the outlines of the life and other matters concerning which there was discussion in the cause for the introduction of the Venerable Servant of God, John Baptist of Burgundy.

604 In Cagliari. Concerning the beatification and canonization of the Venerable Servant of God, Father Ignatius of Laconi, a lay brother, professed of the Order of Minor Friars of Saint Francis, Capuchin, concerning the decree by which it is declared that the virtues are of heroic degree, so that the discussion of four miracles may proceed.

612 Decree, in which answers are given to several doubts raised concerning the celebration of the Mass of the Holy Spirit and concerning the Collect to be said during the time of the Jubilee proclaimed for the ecumenical Council.

660 Opinions of the Consultor concerning the same proposed doubts.

662 In Rome or Vienna. Concerning the Venerable Servant of God, Father Angel of Pas, Priest, Professed of the Order of Saint Francis, of stricter observance.

[*Latin ed. p. 689*]

689 SUMMARY OF ACTS. Concerning matters previously unaddressed, or the Decree regarding the service of God never before exhibited. . . . 671 Of the Order of Discalced Carmelites in Gallia, or the Decree by which it is granted to Priests who celebrate the Sacred Office in their churches or chapels, that they may enjoy the calendar of Masses of those same religious. 672 FROM THE HOLY CONGREGATION OF INDULGENCES in the City, the Decree concerning the form of small scapulars for pious associations. 99 Concerning the Aurelians, or the Decree concerning the power of the General Vicar with regard to the erection and aggregation of confraternities. 103 Concerning the Catholic Association of Saint Francis of Sales, whose institution and purpose are praised in the most excellent terms, and which is enriched with new indulgences. 107 Decree of the City, concerning certain doubts regarding the obtaining of the so-called "sabbatical" indulgence for those attached to the Carmelite Scapular. 170 From the Chamber, or the Decree concerning the legitimate admission of the faithful into the Carmelite sodality. 219 Of Fermo, or the special Decree from which it is deduced that pious confraternities can admit outsiders from their own diocese, if no limitation regarding place has been made in the Apostolic Letters; and there are also mentioned certain Decrees of the Holy Office which restrain abuses of Apostolic indulgences. . . . 271 Of the Society of Jesus, or the Decree in which it is discussed concerning the Indulgences granted to the faithful who visit the churches of Regular canons, although the Regular canons do not legally possess those same churches by title of property. 325

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Alienatio Bonorum Ecclesiasticorum.
Indulgentiae.
Altare quoad ornatum.
Indultum Iubilationis.
Appellatio.
Irregularitas.
Brixia.
Ius Patronatus.
Canonici honorarii.
Legata.
Missarum.
Canonizatio.
Litaniae.
Cappellania laicalis.
Litterae collationis.
Cathedrales unitae quoad ritum.
Matrimonium.
Missa conventualis.
Chorus.

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Missa pro populo.
Clericus quoad vestes.
Coecutiens.
Missa quoad celebrationem.
Concurrentia Festorum.
Missa quoad praeceptum.
Consecratio rerum.
Missa votiva.
Consuetudo.
Montes pietatis.
Officia votiva.
Dismembratio paroeciae.
Divisio reddituum.
Orationes quoad ritum.
Eleemosyna Missarum.
Parochus quoad remotionem.
Feria V. in coena Domini.
Paroecia vacans.
Festivitas.
Patrimonium sacrum.
Fideicommissa.
Pensio.
Fructus Beneficii.
Poenitentiarius.
Incompatibilitas.
Possessio.
Alienatio Bonorum Ecclesiasticorum, emphiteutici ad dominum directum, quoties insignia.
Bona ecclesiastica inalienabilia possunt bona dumtaxat revertatur, pag. 99.
valoris ex Episcopi consensu, pag. 98.
generico alienationis nomine, pag. 98.
non sibi, licet, bona fide fundus ad dominum directum.
Fundi qui fuerint a testatore perpetuo obli-
Contractus emphiteusis comprehenditur sub aliis emphiteuta fecerit in pactum antea non deducta, dummodo sine culpa emphileutae.
Aedificans in fundo alieno, melioramenta sunt sine Apostolico Beneplacito, pag. 98.
Alienari Potestas.

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Idea.
Praecedentia.
Renunciatio.
Regulares.
Rescriptum gratiae.
Scapularia pia.
Synaxis sacra.
Societas pia.
Sodalitium.
Statuta capitularia.
Subdelegatio.
Stola.
Suppressio.
Suspensio.
Transactio.
Translatio officiorum.
Translatio officiorum quoad ritum.
Vicarii paroeciales.
Vicarius Generalis.

gati alicui causae piae, in quoscumque transant, iugiter oneri causae piae manent subie - aedificati, nisi legitime solvantur, pag. 552.

interveniente, ius habeat ad compensationem impensarum, aestimatione aedificii facta, pag. 98.

Earumque impensarum compensatio locum habere quoque potest in devolutione fundi.

In publica expositione Sanctissimi Sacramentiamovendaesunt ab Altari tres tabellae.

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692 GENERAL INDEX. which are beneficial to the celebrant in the celebration of Mass, p. 40. Cussinus is not to be presumed Ostensio, p. 11 to 41. Regarding altar candlesticks, see Decretum i» Cameracen, page 48. Appeal. Although an appeal, which can be interposed in suspension, immediately suspends the jurisdiction of the judge from whom: it does not, however, have the same force as a simple recourse or appeal to a superior judge, unless the superior admits the appeal, p. 373. Nor can simple protests issued in the records of the Curia interrupt jurisdiction and prevent the judge from proceeding in his right, unless reasonable grounds are shown, p. 373. In cases which concern the preservation of justice, a sentence issued, if the faculty of formally appealing is present, can only be exercised within ten days from the time the sentence is pronounced, and therefore they are

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called fatal appeals, p. 382. By equity, the faculty of appealing within ten days from the day of notification of the sentence is granted repeatedly; especially when the defendant is considered contumacious, because he has never, either in person or through a Procurator, appeared in court, p. 382. If the useful time for appealing has elapsed, the sentence becomes final and is considered valid, p. 383. Breviary. In the most provident reform of the Roman Breviary by St. Pius V, completed and prescribed universally, exceptions were made for those who used their own Breviary according to the old rite: but now, following the example of the Holy Father, most have purged their own Breviary, at least according to the Roman, p. 415. Such particular usages were not only not prohibited; but with the revision and confirmation of the Holy See, they were worthy of commendable consideration, p. 415. These usages cannot be confused with later innovations, which, without the revision of the Holy See, have changed the older Breviaries, nor do they prefer the venerable antiquity for which they were permitted, nor do they prefer the universal Roman liturgy, p. 498. Therefore, just as the first usages were to be commended, so the second were to be condemned; and so, if the former usages have lost the appearance of antiquity, to which the excepted Breviaries were preserved, they can no longer be considered under the protection of the privilege, p. 499. Indeed, such usages, once made and ordered to be executed, are considered subject to the authority of the greater churches, so that, unless there is a particular impediment, they also lose the right to return to the liturgy they have abandoned, p. 499. The illustrious Benedictine Order reformed its ancient Breviary, and Pope Paul V commended it to the entire Order, and he could have used that exhortation even for the Cistercian Order, p. 499. Indeed, doubts and discrepancies arising, that exhortation eventually became a true and serious precept, p. 499. Meanwhile, with the proposed universal reform of the Cistercian Order, that monastic Breviary, the Benedictine, remained suspended among the Cistercians, p. 499. Decrees and sanctions by Alexander VII regarding the reform of the Cistercian Order, also confirmed the liturgical form which they had followed from ancient times, but indicated a certain faculty for them to regulate the same liturgical books according to the Roman liturgical matter, p. 499. This regulation was received by the General Chapter of the Cistercians, which already existed in the Vaussinian Breviary, and the acceptance of that Breviary was confirmed by Clement IX in a specific form, p. 499. Honorary Canons. Honorary Canons, who hold a choral benefice in the same church, cannot fulfill the duties of the benefice in their canonical capacity, although almost all the duties are common to Canons and Beneficiaries, p. 317. Therefore, if they perform the duties of the benefice accidentally, not as Beneficiaries, but as Canons, they are subject to penalties, unless they enjoy a special Apostolic indult for that purpose, p. 317. Canons added to a certain Chapter, although they possess prebends, can be simply honorary, p. 189. These are considered honorary,

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[*Latin ed. p. 693*]

698 GENERAL INDEX. Bishops, with the consent of the Chapter, or Chapters with the consent of the Bishop, to increase the worship and adornment of churches; this title alone cannot claim those rights which, by some fact, certainly pertain to them according to Canon Law, page 579. Therefore, honorary Canons can only claim those rights which they legitimately demonstrate, either explicitly or implicitly, to have been granted or acquired to them, page 579. Honorary Canons, besides the right to participate in the choir and other sacred functions, and besides the insignia of honor which are common to titular Canons without infringing on any right, cannot claim any other canonical rights which were not granted to them by the Chapter upon their reception, even if the Bishop wishes to grant them and they are granted with the consent of the Chapter, page 584. There is a distinction between supernumerary Canons and honorary Canons, page 585. Canonization. In the cases of Servants of God, despite immense and arduous labors, the ordinary process and the other things which must be carried out according to the prescriptions of the Roman Curia for the introduction of the cause, little is done, page 161. Then the cause truly begins when the Apostolic Authority assumes its consideration and, with its own authority, rebuilds the process and begins to examine the matter through its delegates, using all the prescribed solemnities, page 164. Although the Holy See may judge other causes summarily and economically, examining only the truth of the facts based on the documents presented; nevertheless, in the cases of Servants of God, the most rigorous process is required in every reading of the judgment, with all the prescribed solemnities, page 161. The incorruption or desiccation of a deceased body cannot be considered a supernatural sign unless other accompanying circumstances concur which cannot be attributed to natural causes, page 610. Such accompanying circumstances may be the length of time, a vivid and pleasing appearance, the copious flow of pure blood, a sweet and constant odor, etc., page 612. When this posthumous sign is present, joined with the memory of a holy life, it seems less necessary to continue the fame of sanctity for the introduction of the cause, which is nothing other than a shadow, (it) makes it easier to presume the foundation of sanctity, page 612. In cases excepted by Urban VIII, a particular process, both for the beginning and for the continuation of the cult, must be carried out by the Ordinary, and the first judgment must be given, page 529. Lay Chaplaincies. Lay chaplaincies, which, according to the will of the testator, must at least be held by a cleric, cannot be held in the married state without a special Apostolic dispensation, page 315. Certain lay chaplaincies are given to

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be held by lay persons, which scarcely differ from a profane trust, with the obligation of celebrating the prescribed Masses, page 552. Cathedral Churches united in rite. In cathedral churches where the order of the divine office is different, the Bishop (may) follow whichever he prefers, provided that the feasts of the patrons and the dedication of both churches are observed, page 51. In united cathedrals, Canons of one church are obliged to celebrate the titular feasts and the dedication of both churches with their octave, page 59. Choir. The law of the universal Church obliges each Canon to duly and devoutly chant at each canonical hour; whatever limitation may exist, it must be legitimately demonstrated, page 24. The Council of Trent, in its Decree, did not indiscriminately grant Capitulars three months of vacation, but restricted longer vacations to three months, page 305. This Decree also derogated from immemorial customs, but not from the privileges of foundations, page 305. Nor did it derogate from the method of serving in the choir on alternating weeks, if, while maintaining this method, the Canons do not enjoy more than three months of vacation, page 306. Canons cannot use the vacation granted during the more solemn times of the year, so that the people are not deprived of the presence of the clergy in the church, at that time.

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694 GENERAL INDEX. The Church may either rejoice or pour forth acts of penance; Holy Orders cannot be conferred outside of the appointed times, p. 56. Concerning the custom whereby not all Canons serve in the choir during the season of Advent, if this custom is brought to judgment, it is not easily sustained, p. 430, note. Concerning what is required of those reciting from memory or psalms in the choir, see p. 306. Those who, by custom or by law, are excused from serving in the choir during the Offices of the Feasts, or during penitential times, may omit these things, whether from choral or from prescribed duties. Concerning the consecration of altars and churches, see p. 56, 57, 58, 61. Concerning Beneficiaries, pious individuals who are included among the Canons, see p. 308. The same custom, even if not prescribed by law, obtains the force of law, and in those matters in which the same reason prevails, the disposition of the law must hold; if acts are repeated or, by their very nature, imply an obligation, or are considered obligatory by common opinion, p. 308. The distribution of the funds, according to the Tridentine norm, must also be present in those chapters where it is lacking, and the custom of preserving the funds for the Beneficiaries, which has been observed for a long time, has the force of law, even if the title by which it was introduced is unknown, p. 36. Those who receive alms are obligated to contribute their due share to compensate for the absence of Canons, and they ought to be compelled to do so, p. 164. Long-standing customs, which appear to originate from rash inquiries, are very extensive and uniform, p. 499. Those who are accustomed to serving

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in the choir, and who are subject to penalties for undue absence, ought to arrange to fulfill their duties in such a way as not to prejudice the pious intention; the *Punctatores*, or those who note the individual absences in a book, ought to do this, p. 319. A custom that has no explicit legal basis, p. 531. Canonical penalties (which are unjustly and violently imposed by the civil magistrate) are suspended from those who are present in the choir; they are to be considered as present in the choir as long as the cause of their absence persists, p. 312. However, the validity of such customs depends on the customs of particular places, and what is easily tolerated there, p. 312. The Vicar Capitular, by virtue of his Vicariate, is strengthened by repeated processions over a long period of time, neither secretly nor precariously, nor by force, p. 383. A cleric holding a Benefice, if he does not wear the habit and tonsure, is deprived of the Benefice by the very fact; the Judge, by intervening, declares that he has incurred the penalty, p. 383. It is permitted for a Bishop to confer Holy Orders, to the extent that it is for the benefit of the parish. The Bishop can and ought to determine the dismemberment of the parish, p. 270. The consent of the existing parish is not required, if they do not suffer a loss of income, p. 271. Even if there are canonical reasons, the officiating priest ought also to prescribe general matters, p. 579, p. 50, and 317. A cleric intervening in a Chapter does not profit from distributions (which are not irrational), provided they are properly demonstrated by acts; such a fictitious presence does not always produce the same effect. If a custom is brought to judgment, the dissent of those present is disregarded, if they were present for a canonical reason and did not suffer any loss of income, p. 271.

[*Latin ed. p. 695*]

695 GENERAL INDEX. Parishes cannot be challenged regarding the jurisdiction they exercise, provided that the canonical causes are present and the canons by which they are governed defend the division of property, p. 271. Division of revenues. If, in a division to be made, a fixed and determined portion must be allocated to a partner in the division from the collected revenues, that portion is not due in its entirety if the collected revenues do not amount to that portion, p. 36. Alms of Masses. Although the purpose of the Urbanian Decree is to remove harmful profits, it is not permissible, after removing the harmful profit, to arbitrarily deduct a portion of the alms of Masses and divert it to another pious cause, p. 538. Indeed, according to the specific Urbanian Decree, this is prohibited by the general ecclesiastical law, which states that no one can, by his own authority, divert any goods, whatever they may be, which have been given by the faithful for a specific pious purpose, to another, even if more useful, cause. p. 538. The Feria (weekday) should consist of those things in which the Christian people can, without sin, participate, p. 38. Fideicommissa (Trusts). Certain trusts or hereditary substitutions are given in such a way that they are

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mixed with a pious cause, so that it cannot be immediately determined whether the property pertains to the pious cause, or rather, whether the pious cause is a perpetual pious legacy combined with a substitution of inheritance, p. 551. When civil law provides for the settlement of fideicommissa, it is very important to determine whether the property pertains to the pious cause or not. p. 551. If the property is actually related to the pious cause, civil laws cannot exercise any legal power over the disposition of the assets, p. 551. However, if the property does not pertain to the pious cause, it is accepted that civil laws can dispose of the same fideicommissa, provided that the pious legacy remains intact and protected, which cannot suffer any detriment under civil laws, p. 552. Fideicommissa, to some extent protected by the shield of the pious cause, are subject to civil laws regarding fideicommissa, always provided that the substance of the pious legacy remains, p. 552. The Lord's Supper. The most august Host, which is reserved on Feria V in the Lord's Supper, did not, from its original institution, have any particular significance: and the Host was reserved to be kept for the following liturgical day. p. 157. Over time, the reservation and keeping of this most sacred Host has been celebrated with greater external solemnity in order to remember the institution of this Sacrament again and again, p. 157. Although the faithful people, ignorant of the origin and nature of this rite, may spontaneously be led to consider the burial of the Lord on those days which are most sweet in memory of His Passion, it is the duty of the clergy to remove all those symbols in this reservation which do not signify that burial, according to the institution of the Church, p. 158. Festivities. It is not reprehensible (and, as the teaching of the wise commends, it should be encouraged) to celebrate public festivities, after the sacred things have been properly used, with games and amusements suitable to the local customs. p. 158. Fruits of a Benefice. Although a benefice can be equated with usufruct in many respects and should be, it cannot be equated in all respects, p. 170. A benefice is granted to the usufructuary as if to a lord, who receives only for his own benefit and advantage, as much as he can receive, without, at least, worsening the condition of the property: but a benefice is granted to the beneficiary for his honest sustenance; therefore, he does not enjoy the same degree of right to use and enjoyment, p. 170. Therefore, the price arising from a large and extraordinary excavation of a part of the property which, by chance, makes the property better, may pertain to the usufructuary, but it may not pertain to the beneficiary to the same extent: therefore, it should be invested for the benefit of the benefice, p. 170. Incompatibility. A nonincumbent is, by itself, i.e., by law, incompatible with the office of temporary vicar in

[*Latin ed. p. 696*]

696 GENERAL INDEX. The care of souls is not: although it may be incompatible under certain circumstances, either by accident, or by a special

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prohibition, or because a Canon regular cannot properly fulfill both functions at the same time, page 421. The less it should be considered inherently incompatible if the care of souls is inherent in the Chapter to which the Canon belongs, who has been appointed as a temporary vicar by the Chapter, page 421. Indulgences. Indulgences attached to churches, with regard to existing Regulars, whose own they are, follow the same Regulars, for whose benefit they were granted, p. 328. Therefore, when Regulars are "removed from a certain office," the same churches lose these indulgences, and when the same Regulars return, the same indulgences are revived by the same act, p. 328. It is not necessary to have a legal title of ownership for a Regular to grant indulgences to his family by his presence: but it is sufficient to have full and lasting legitimate possession, by which the churches are considered by the Christian people to belong to the Regulars, p. 328. The Indulgence of the Holy Saturday, which is most piously believed to have originated from the promise of the Virgin Mary herself, is not received by all members of the Holy Scapular, p. 173. In order to obtain it, in addition to admission to the pious confraternity, it is required to recite the canonical office daily, at least the small office, for those who are able to recite the office, p. 173. The condition of reciting the small office is sufficiently fulfilled by reciting one night's office with the lauds and other hours according to the canonical custom, p. 173. The Holy See most strongly disapproves of summaries or abstracts of indulgences, which do not correspond at all to the Apostolic concessions, page 278. Indult of Jubilation. The Indult of Jubilation, which is granted only as a reward for forty years of choral service, is not granted unless it is proven that the service has been diligently and faithfully performed, page 319. Indeed, even legitimate and justifiable absences do not suffice for obtaining this grace, unless the time spent in choral service is not considered, p. 319. Irregularity. It is not permissible for someone who is to be promoted to the sacred orders to obtain permission not to recite the Divine Office and the prescribed Masses, or not to read the prescribed texts, page 430. Nor can such an obtunded vision be adduced as a reason for obtaining this, since such a bodily defect, if it prevents the person from reciting the Divine Office and the prescribed Masses, makes him irregular, p. 430. However, a person who desires to be promoted to the sacred orders is not considered regular by the Holy See, unless it is absolutely necessary or for the evident benefit of the Church, page 431. The universal law of the Church, which prevents those with bodily defects from receiving the sacred orders, has only one reason: the proper exercise of the ecclesiastical ministry and its decorum, page 595. Therefore, not all who suffer from a bodily defect or infirmity are to be considered irregular, unless such a defect or infirmity is such that it hinders or endangers the exercise of the ministry attached to the order, or causes shame or admiration, or creates scandal among the people, p. 595. Hence, a deaf person, according to the common opinion of the

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authors, is not considered irregular, although the Sacred Congregation for Particular Causes granted a dispensation requested for caution, p. 595. Patronage. Lay patrons, to whom, by common law, only a four-month period is granted for presentation, have the right to vary the presentation within the same period, or to present others simultaneously, p. 441. The bishop, among several cumulatively presented candidates, can institute the one he deems most worthy, p. 442. The fact of infamy can be a cause for rejecting a presentation or for denying the same institution to which the person has acquired the right through presentation, p. 442. In matters of lay patronage (which is considered indifferent in comparison to civil trusts), by the term "descendants," both male descendants and male descendants from female descendants are to be understood, unless the second are demonstrably excluded by apodictic arguments, p. 651. This applies whether the action is taken in law or in fact.

[*Latin ed. p. 697*]

697 GENERAL INDEX.

Concerning the right to nominate, or the right of those to be nominated, since these two rights are often correlative, p. 651. He who enjoys the right to be nominated, if neglected by the nominating patron, can rightfully object to any nomination, since he is considered to be appointed by the Founder himself, p. 52. The Council of Trent, prescribing that no one be received into the canonry of a cathedral church unless he has been marked with sacred order or is within one year of being so marked, restricted the Founder's will, by which, formerly, a canon could be established who was a simple cleric and of the minimum age, p. 553. The power to nominate a simple cleric, even of the minimum age, to a canonry in a cathedral church, was not directly abolished by Trent, but it remains restricted in the case of election, since the decree prohibits the reception of anyone into a canonry in a cathedral church, p. 652. In practice, in these cases, it is customary to allow minor clerics legitimately presented from elsewhere to enjoy the fruits, provided that another bears their burdens, until they reach the age at which they can be marked with sacred order and serve in the divine offices as canons, p. 652. Old foundations, which have already considered this matter, find no difficulty; therefore, no indulgence is needed from the Holy See in such cases, p. 652. The right of patronage, which is left to a person by a testator and absolutely belongs to that person's nearest descendants ad infinitum, belongs to all descendants, whether male or female, and their descendants; this is why it is called familial or gentile, p. 659. Therefore, as long as a person exists who demonstrates their succession from the named family, although the succession is very remote, the right of patronage cannot pass to another named seat in second place, p. 659. Nor can the right of patronage be transferred to outsiders by any

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other title; for the surviving patrons do not have the ownership of the law, but only a quasi-possession of that right, which is not transferred to them, but to the will of the founder to others, p. 659. Therefore, whatever harm the patrons do, it cannot harm the successors, p. 660. Hence, the prescription is at least difficult; since the actions of the predecessors do not harm the successors in themselves, p. 660.

Legacies for Masses. Legacies for Masses, consisting of a specified sum of money, which are fully paid to a church so that annual Masses may be celebrated, must be invested and kept safe, so that the annual income may be received perpetually and easily, p. 212. From this reception of legacies, a quasi-contract arises between the church and the testator or benefactor, by which the church assumes a perpetual obligation to administer the bequeathed goods and to fulfill the pious will, p. 212. Therefore, the church cannot be excused from celebrating Masses if it does not receive income from them, either through its own negligence or through improper administration of the legacies, p. 212. However, a reduction in income may provide grounds for obtaining a reduction from the Apostolic See if it is not due to the negligence of the administrator or priest, p. 212. Pious legacies for Masses, which are imposed on heirs, are easily subject to negligence and subversion, p. 530. When lands or goods are bequeathed for a pious cause, and therefore the church is obligated by the testator, it is the duty of the Ordinary to protect those goods, since he himself is the defender both of the church's rights and of the pious intentions, p. 530. In the Litanies of Loreto, no other verses can be added, and the custom that allows this is disapproved of, p. 47. In the Litanies of the Saints, on the feast of St. Mark and during the Rogation days, the verses must be repeated completely by the clergy, p. 48.

Letters of Collation. Apostolic letters of collation do not change the status and condition of benefices, which they prefer, unless it is clearly stated in the words of the letters that the Roman Pontiff intended to change their condition, and the words do not correspond to the foundation, p. 190.

Marriage. A marriage celebrated in such a way that a woman becomes the wife of one person externally, but is also used dishonestly by another, is null, p. 74.

[*Latin ed. p. 698*]

698 GENERAL INDEX. Although the conditions under which marriage is said to be expressed must be considered in the marriage itself, at the very act of celebration, so that they may be taken into account in the external forum, it is possible to proceed with the celebration, even in cases, such as those in Kosso, where the actual intention of the contracting parties may be ascertained from elsewhere, page 75. Regarding those who are to assist at the marriage, see page 298. The first faculty contains a special opinion, by which the faculty to assist at the marriage is granted. The question of the

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nullity of a marriage contracted by a priest who lacks this faculty having been overlooked, two things must be demonstrated to resolve the matter: first, that the marriage has remained valid, provided that it was rightly proceeded with; second, that, for the sake of summary proceedings regarding the marriage, it is possible to declare, due to the reasons that follow, that this faculty can be understood in a twofold sense: 1. that it is permissible for the marriage to proceed; 2. that it is permissible for the marriage to be dissolved. This faculty, conceived in the first sense, does not seem to be able to contribute to the validity of the marriage unless the condition is verified; on the other hand, if it is accepted in the second sense, it is permissible even if the condition is not verified, page 299, page 197. In cases of impotence, the argument for demonstrating that the marriage has not been consummated is taken from the integrity of the woman, page 373. The Rota has judged that, if the spouses have obtained this faculty through deception, the marriage does not have validity, whether by deception or by the granting of the faculty by the Ordinary. The Parochus, who is not one of the contracting parties, to whom license has been granted by the Ordinary to assist at the marriage, even under no condition, must be preferred, page 299. It must be understood that this possibility, if such things are present in addition, which would sufficiently demonstrate that it has become necessary for the act, must be excluded from the judicial acts prescribed by law, page 377. A woman who, indulging in lewdness, betrays herself to another man, contracts marriage with the man to whom she betrays herself, page 249. He cannot be called a husband, nor is it sufficient for him to be questioned by a missa interrogatoria from him, but a defender of the marriage is required, who is interested in the matter in which the action is brought, page 522, more or less, page 249. Those who depart from their own parish and go to another, so that they may contract marriage there, without having a canonical domicile there beforehand, cannot validly contract marriage there, page 250. It does not matter whether the spouses think, between themselves, of returning to the domicile from which they departed after the marriage has been celebrated, provided that they have not, at least temporarily, abandoned their former domicile, page 250. Therefore, consent obtained under grave and direct moral pressure does not have the natural proportion with the perpetual bond which is fully introduced by marriage by divine law, page 522. Hence, the marriage thus contracted is null; however, it requires consideration in the external forum. The faculty that Ordinaries

[*Latin ed. p. 699*]

699 GENERAL INDEX. concerning the ministry, not merely concerning marriage itself, so that it may be heard and understood in the parish, but so that the entire Church may understand and declare it, page 522. p. 257. However, the Benediction of marriage cannot be given outside of Mass, nor

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can impediments be introduced in this regard, which would prevent the same from being celebrated by the parish priest. p. 63.

The conventual Mass, which originates from the most ancient regulations of the Church, which were special privileges granted to certain faithful for public Masses, has long been celebrated in cathedral and collegiate churches, page 536. so that they may be held to the choral offices, which are considered as the highest point of their divine offices, page 536.

The distribution of vestments is a legitimate right. However, these impediments cannot be removed in any way, nor can they be easily removed in all cases, but rather they should be removed spiritually, rather than by the loss of vestments, p. 258.

Such causes for the celebration or prohibition of Mass in rural chapels on feast days, or for changing the hours of celebration, depend on the condition of the places and people, and can be better known in a diocesan synod, especially since they are often much influenced by custom, page 536.

Nuns cannot hear non-parochial divine offices in public, except for the recitation of the Divine Office after the cells, only with the permission of the Bishop concerning the marriage Mass, p. 668.

The Mass for the people is improperly called "scopi," page 52.

The application of the Mass for the people must always be done by the parish priest, even if he celebrates privately, but not by the Vicar, even if he celebrates in the presence of the people, page 662. p. 44.

Concerning the celebration. Priests must conform to the customs of the church in which they celebrate, when celebrating in a foreign church; see there exceptions, page 500 and page 61.

Priests who have recited the office of a double feast may celebrate Mass in a foreign church, in which the double office is not said, at least with the major vestments, p. 53.

Sacred vestments, mostly made of gold fabric, can be used for any color, except for violet and black, p. 53.

It is permissible to use silver or pewter chalices in the sacrifice of the Mass, p. 54.

The Mass of the Most Holy Heart of Jesus should not be said in the Entrance with "Alleluia," even outside of Advent and Lent, p. 48.

The Masses of Sundays or weekdays throughout the year cannot be celebrated as votive Masses, p. 51.

The Mass of the Blessed Virgin Mary can also be celebrated as a votive Mass, even on more solemn feasts, p. 53.

It must always be celebrated in white. p. 53.

It is not permissible to say the Creed and Gloria, but only the Gloria on Saturdays, p. 53.

It is not permissible to add Collects or the Requiem, page 51.

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Concerning the Mass celebrated by permission. Those who celebrate by permission, page 57.

The Votive Mass. The votive Mass must not be confused with a simple Mass, nor with any external customs attached to the Mass, p. 53.

It is not permissible to celebrate three Masses on the Nativity of the Lord, p. 53.

Mounts of Piety. The "Montes Pietatis" and those who give money or grain loans, who are motivated by Christian piety to relieve the poor from usurers, are not bound by the precept to give anything above the principal, but cannot, by the right of hearing the sacred in the parish church, p. 257.

They may, however, receive something above the principal by the title of expenses, as much as is sufficient, p. 32.

[*Latin ed. p. 700*]

700 GENERAL INDEX. the preservation of the mountain and the expenses incurred, p. 32. By the authority of the Holy See, it is permitted for a time to collect more from the mountains for pious purposes, provided that this collection is clearly distinguished from other sources and is not considered a loan subject to interest, p. 32. Votive Offices. Votive offices granted by the celebrant may be recited on days other than those of the privileged feriae (excluding Advent and Lent), provided that a double or half-double office is not transferred into them; however, they are not permitted on octaves, even if they are not privileged, p. 46. Votive offices cannot be recited on days when the offices of the nine lessons are to be recited, p. 44. Prayers regarding the rite. Outside of Mass and the Office, prayers may be granted through a brief conclusion, p. 44. This conclusion must agree with the final prayer, p. 47. In Mass, unexpected Collects are to be omitted on feasts of the first class and are left to the discretion of the priest on feasts of the second class, p. 670. However, unexpected Collects for a very serious reason must never be omitted, although they should be concluded with a different prayer, p. 670. When a third Collect is present in Mass, one cannot freely choose a prayer from a Sunday, feria, or Mass of a saint, p. 51. In daily Masses for the repose of the soul, the prayers should not be changed, even if they are said for a particular deceased person, p. 50. It is permitted to recite prayers at the altar after Mass, provided that the sacred vestments are not removed, p. 61, VIII. Public prayers in the vernacular may be recited before the Blessed Sacrament, provided they are approved, p. 61, IX. See p. 4, S. The parish priest regarding removal. A translation from removal differs greatly from a punishment, p. 25. The Holy See, in a way, is aware of the custom in Gallus, where, as is said, about thirty parish vicariates per thousand depend on the prudent administration of their bishops, so that these parish priests are protected by laws and canonical form according to common discipline, p. 26. Therefore, all those who condemn this custom as intolerable and reprobated by the Holy Canons act rashly,

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p. 26. Vacant Parish. According to the Tridentine law, it belongs solely to the bishop or ordinary to appoint a parish vicar during the vacancy of a parish, p. 428. This right or office extends to any parish church subject to the bishop, even if those churches are considered to have special rights or privileges, p. 428. Therefore, cathedrals or collegiate churches, which are concerned with the care of souls, which they exercise through a vicar, cannot decline this Tridentine law during the vacancy of the vicarage, p. 423. According to the general norm, the rector is obliged, by a statute from the ordinary, to appoint his own vicar within six months, p. 428. Questions that arise concerning the rights and goods of parishes when they lack their rector must not be decided without appointing a defender ex officio, who will take up the cause of the vacant parish, p. 80. Sacred Patrimony. The sacred patrimony, determined for each diocese, cannot be burdened with the obligation to pay debts so that a priest may not be forced to beg for alms, p. 212. Sacred property or a benefice held by title of Holy Orders is not considered to be automatically transferred by the acquisition of another benefice unless the authority of the bishop intervenes, who, according to the first place, will make the substitution, p. 373. Pension. Although there is a general law that benefices should be conferred without diminution, the bishop may nevertheless impose pensions when conferring benefices, p. 78. Beneficiaries who are burdened with a pension are only burdened to the extent that is legitimately prescribed to them in the granting bull, p. 78. It does not matter whether the burden ceases before they take possession, so that they feel no burden: for the granting bull,

[*Latin ed. p. 701*]

701 GENERAL INDEX.

{Laws do not change the nature of property, p. 78. Civil authorities do not recognize public debts as legitimate, p. 372. Pensions on ecclesiastical benefices are to be considered, Decrees. Civil laws, legitimately established, are to be observed without tergiversation, and the faculty of the faithful to freely pay those that injure them against unjust laws, nevertheless, by this, they do not lose the power to dispose of their goods in favor of the Church, and do not remove the obligation to heirs to fulfill the testator's will, p. 278. Pensions imposed under the condition that they cease when the income of the one to whom they are paid increases, are referred to secular execution, and if a proper increase in income occurs, they cease, p. 528. Decrees of civil law regarding ecclesiastical matters. Decrees issued by ecclesiastical authority, which are legitimately established, have no force, p. 592. Precedents. The Penitentiary. In collegiate churches, even those of considerable size, there can be, by special foundation, not only a theologian, but also a Penitentiary, p. 50. The Penitentiary, constituted in a collegiate church, must walk in processions under the Chapter's cross, if the Chap-

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ter intervenes with the Cathedral; otherwise, under a single cross of the church in which the procession takes place, which all must follow, and if a special right is granted to him, he can claim it (those who are of the secular clergy, p. 52), and only demonstrate to himself that it has been legitimately granted to him, p. 190. Renunciation. When a Penitentiary office is vacant, and the episcopal see is vacant, it cannot be filled by the Chapter, although the collation of Prebends is common to the Bishop, p. 591. Ecclesiastical offices publicly established in a Church and Chapter, or even solely by the Chapter, cannot be dismissed arbitrarily by those who canonically possess them, but the consent of the person dismissing is required, along with a just cause admitted by a legitimate superior, p. 601. Prayers. It is futile to pray to the Holy See to remove those who, by force, are in possession of the goods of a Chapel, even if they are laymen, because it is contended that they hold the title of possession, p. 356. Those who possess [the property] cannot be deprived of it, unless it is clearly shown that they are intruders in possession, and that they are illegitimate holders of the goods, p. 380, and that there is no unjust reason found, p. 601. Secular power. [It] interferes in matters, p. 372. Therefore, a benefice is not said to have been relinquished out of fear, if it has had cause to fear from the very one who could have dismissed it, and it is not lawful to reclaim it again after it has been relinquished, p. 602. Regulars. Although coerced to this effect, the renunciation, which is made by a legitimate superior, is not valid, because the Holy See, in order to support greater things, tolerates, as much as possible, the civil order, although the public order of the Church is not at all dependent on a renunciation that is not made by a legitimate superior, p. 601. Regulars secularized by the mere grant of secularization are not considered by the Holy See to be legitimately erected for the possession of benefices, but are granted only with the explicit condition that, in the case of violent suppression, the goods of the same [regular] will be restored, p. 373. The founders cannot be considered suppressed or invalidly erected, because the civil laws, in their own order, express the grant in words, p. 373. Regulars are bound to the offices of the Diocese on feast days, as far as the forum is concerned, p. 54.

[*Latin ed. p. 702*]

702 GENERAL INDEX. Rescripts granted by authority, or by the free will of the grantor. The acts of Presbyters, p. 91. Such pious societies, without grave and manifest fraud, have the force of a special law. p. 315. Therefore, they cannot be dissolved by the Ordinary, although the Ordinary may and should dissolve them if it should appear that the grace was not rightly begun; for the benefits granted by the Prince must remain, unless limited. p. 315. A rescript may be amended if defects are found, p. 92. It matters little whether this, obtained by fraud, or indirectly through denial, etc., can be supported. p. 531. The dissolution of a scapular is made directly by the

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Ordinary through an express declaration.

Sodalities. In monasteries of nuns and pious women, it is not fitting for small and pious scapulars, which the faithful wear to gain indulgences, to establish a sodality for men, p. 91. The faculty of admitting confratres, which religious orders should have in the Apostolic Sees, cannot vary beyond certain limits, and must be exercised in any place, provided that the other conditions are met, p. 102. Such limits are to be taken from the very material form by which the major scapulars of religious orders are constituted, which this minor scapular imitates, p. 103. The reason why these small scapulars require a material form for admission can be found on p. 275. The favors and graces of the Apostles, by which pious confraternities canonically erected are granted, cannot in any way extend beyond the form of the concessions, p. 275. The scapulars will be the more perfect the more they imitate the major statutes, and the less perfect the more they deviate from their imitation, p. 103.

Capitular Statutes. Every chapter is bound to write its statutes according to the form of the law, which are then approved by the Bishop, p. 319. Capitular statutes cannot, by any external influence or legitimate authority, exempt the Canons from their proper canonical duties, p. 264.

Synaxis. This authority cannot be placed in the hands of a probationer, even an Apostolic probationer, but the Holy Communion can be administered to the faithful by a priest wearing black vestments, opening the tabernacle, p. 43. The faculty to approve is granted to the society next to the common one. p. 264.

Pious Societies. According to the law, capitular statutes are made, and are not to be considered common unless they are lawful, honest, and do not contradict the sacred canons. They must not be confused with pious presbyteral societies, which do not contradict the rules of religious orders, the Apostolic Constitutions, or the decrees of the Council of Trent, p. 264, nor with ecclesiastical congregations which have received approval from the Apostolic See, p. 91.

Subdelegation. The same pious societies can be erected in two ways: by delegating that power, which the Bishop perhaps obtained graciously from the Apostolic See, so that they may not change the nature, form, and appearance of a canonically erected pious society, p. 106. In a diocese, as long as the power of subdelegation is mentioned, confraternities canonically erected are established: others are simply pious, which are for a certain purpose or function.

The parish priest cannot delegate the permission to assist at marriage, which only the Ordinary has, p. 300.

[*Latin ed. p. 703*]

703 GENERAL INDEX. Stole. The custom of wearing a stole during the

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preaching of the Divine Word is not disapproved, and the color of the stole should correspond to the time of day, pp. 61-67. It is fitting that a stole be used in the Church when hearing sacramental confessions, p. 63. The Sacraments are to be administered with the cope and stole removed, and the cape and mozzetta put aside, p. 63. Suppression. A canonically erected benefice cannot be considered suppressed, nor should it be suppressed, due to a reduction in the endowment established in its foundation, even if such a circumstance occurs from which it might not have originally been conceived, p. 373. Suspension. According to the Holy Canons, suspension from Divine office, that is, from office and benefice, cannot be imposed for a long time except for grave and mortal sins, p. 438. A cleric suspended from Divine office does not receive choral distributions and other emoluments during the time of his absence due to this suspension, unless the injustice of the suspension is proven, p. 438. Stubbornness against a just decision of the Bishop can provide a legitimate cause for suspension, p. 27. The Ordinary can validly deprive priests of the power to preach and to hear confessions without just cause; however, the question remains whether he can do so lawfully, p. 92. Transactions. The Holy See does not approve of transactions, or perhaps preliminary agreements, concerning debts owed to a certain Church, if this is the only reason: because those who owe the entire debt, compelled by an unjust law, cannot, in a civil manner, give the whole amount, p. 278. Translation of offices. For ecclesiastical offices that must be performed in a designated church and have been performed there for a long time, grave reasons and Apostolic permission are required to transfer them to another church, p. 181. Such reasons are reduced to necessity and evident benefit to the Church, which are canonical and universal reasons for introducing any change in established ecclesiastical matters, p. 181. In any change made, care must be taken to ensure that only what is necessary is altered, or what seems prudently required by evident benefit to the Church, with the least detriment to the matter being changed, p. 151. Reason dictates that what is well established in the Church should not be taken away by contrary regulations, p. 432. Therefore, a pious exercise rightly established in a church, usefully maintained, and increased by the alms of the faithful and by legal means, cannot easily be transferred to another church, p. 433. Translation of offices concerning ritual. The Offices of the Saints, which must be recited on their proper days and cannot be postponed to the end of the year, cannot be recited on days of the half-Vespers rite, p. 45. If the anniversary of the Bishop's consecration and the election or consecration of the Roman Pontiff coincide on the same day, the anniversary of the Bishop should be observed on the following day, p. 46. Vicars Parochial. Bishops, by the disposition of Trent, do not seem to be able to appoint perpetual vicars, when the care of souls fully belongs to the Chapter, which administers the parishes through removable vicars, p. 422. General Vicar. The General Vicar cannot perform those matters that are

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usually included among the major affairs of the diocese, by virtue of the general mandate that he receives from the Bishop in assuming his office as General Vicar, p. 106. Among these major matters are the canonical erection of confraternities or the canonical aggregation and the approval of statutes, p. 106. For canonically erected confraternities form certain pious communities, enriched with spiritual benefits, which are part of the ecclesiastical structure of the diocese, p. 106. Therefore, both the erection, and the aggregation, and the approval of statutes require the superior authority of the Bishop, p. 106. However, the Bishop can confer authority on the General Vicar by a special mandate, whenever the general mandate does not explicitly include this special authority, p. 106.

[*Latin ed. p. 704*]

OF THE SOCIETY OF THE APOSTOLIC PRINCES

Our most esteemed readers will find, at the end of this volume, a brief account of this pious society. We do this so that it may be apparent, with God's help, how this pious institution progresses, and so that some memory of it may remain each year in these publications, the nature of which will eventually yield to the Seminary, and be preserved therein. At the beginning of the year 1869, we included Appendix II, which describes the status of the pious society, and also provides an accounting of the first half of the year. A similar, and even more detailed, Appendix III will be provided at the beginning of the year 1870. The Seminary will begin, on a private basis, in the coming academic year with four or six students. Subsequently, as offerings increase, the number of students will be steadily increased, and in the meantime, the Seminary will be opened in a public form.

IMPRIMATUR: Marianus Spada, O.P., S.I., Master.

IMPRIMATUR: Joseph Angelini, Archbishop of Corinth, Vice-Gerent.

[*Latin ed. p. 705*]

A SOCIETY FOR THE ADVANCEMENT OF THE APOSTOLATE: A Latin Seminary for the Propagation of Catholic Doctrine is to be established in Rome, for the sake of these very Apostles.

II. Appendix. On the 4th of January, 1869. To the program, which was published while the secular celebrations of the Martyrdom of the Holy Apostles Peter and Paul were being held in Rome, to which this beginning – a Living Monument – is attached, we add everything that has followed, and which constitutes the very first step of the vast undertaking proposed therein. As we do this, we dare to express our fervent desire that the Most Reverend Prelates would deign to invite some Ecclesiastics, who, by giving their names to this pious Society, would undertake to promote this

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pious institution with zeal in their respective dioceses or parishes. For if in each diocese there could be several Ecclesiastical men who would care for the progress of this pious institution, the Most Reverend Prelates themselves would very quickly see the pleasant fruit of their charity; indeed, they themselves would witness with their own eyes the beginning of the Seminary's project in Rome. This, indeed, would happen in a similar way if the individual Ecclesiastics, to whom these writings reach, would offer their help in any way indicated below; to which, moreover, if it is necessary, we could suggest, by means of letters, more suitable means by which they themselves could help this pious institution. The Most Holy God, who is most prepared for the work of faith and doctrine, and who grants a more powerful impetus to the Catholic cause, deigned to add to the encouragement for the propagation of this pious institution, on the 9th of June, in the year of Our Lord 1868, by granting financial aid.

[*Latin ed. p. 706*]

2. CATALOGUE OF ALL THOSE WHO HAVE CONTRIBUTED TO THE ADVANCEMENT OF THIS PIOUS INSTITUTION.

Prominent Patrons:

The Most Reverend and Illustrious Paulus Brunoni, Archbishop of Taron, Vicar and Apostolic Delegate of Constantinople for the Latin Rite.

The Most Reverend and Illustrious Primate Ioannes Balma, Bishop of Ptolemaidensis.

The Most Reverend and Illustrious Primate Philippus Manetti, Bishop of Tripolitanus.

The Apostolic Administrator of the Abbey of Sublacensis.

The Most Reverend and Illustrious Primate Iulius Lenti, Bishop of Sutrinus and Nepesinus.

Patrons of the First Order:

The Most Reverend and Illustrious Dominicus De Angelis, Apostolic Protonotary, participating [in the promotion], and General Vicar of the Archdiocese of Regio.

Patrons of the Second Order:

ROMAN PROMOTION:

The Most Reverend and Illustrious Dominus Petrus Canonicus De Luca, from the innermost chambers, in the Holy Congregation of Bishops and Regular Canons, Auditor in the Apostolic Penitentiary, Signatory, Consultant, etc.

Laurentius Canonicus Peirano, Secretary of the Apostolic Penitentiary.

Vincentius Anivitti, Chaplain from the innermost chambers, priest, orator, and director of the Marian ephemeris entitled "La Vergine."

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Iosephus M. Costantini, Archdeacon of the Catholic Basilica of Aquipendium, Pro-Rector of the Pontifical Pii Seminary.

Angelus Canonicus Piaciteli, Archivist of the Holy Congregation of Bishops and Regular Canons.

Petrus Canonicus Crostarosa, administrator of the revenues of the aforementioned Seminary.

Raphael Sirolli, Cleric from the innermost chambers, Missionary by Imperial foundation.

[*Latin ed. p. 707*]

3. Aloysius Canonicus Lazzareschi, Parish Priest of the illustrious "Basilica of Saint Lawrence in Damasus." Gustavus Corrado, Pro-Rector of the Pontifical Roman Seminary. Iacobus Maher, Pro-Rector of the Irish College. Dominicus Sarra, Substitute Secretary of the Sacred Congregation of Indulgences and Relics. Ioannes Canonicus Ponzi, Official of the Secretariat of the Sacred Congregation of Rites. Ioannes Arceri, Beneficiary of the Vatican Basilica. Caesar Taggiasco, Master of the Gate of the Red Cord in the Pontifical Chapel. Father Generosus Calenzio, Librarian of the Vallicellanus. Aloysius Franci, Substitute Notary in the Secretariat of the Holy Office of the Inquisition. Petrus Avanzini, Cleric in the Pontifical Chapel, author and director of the Latin ephemeris entitled "Acta," etc., of the pious Institute, Secretary.

PROMOTIONS OUTSIDE THE CITY.

IN THE CANARY ISLANDS. Vincentius Raymundus Pelegrina y Lopez, Canon of the Cathedral Church of Saint Christopher of Laguna.

IN HUNGARY. Zachas Chrysostomus, O.S.F., Prior of the Most Holy Savior.

IN THE UNITED STATES OF AMERICA, Ioannes Helly, Priest of the diocese of Philadelphia. Eduardus Hipêlius, Priest, O.S.B., Professor of Sacred Theology, Dean of the Theological College of Westmoreland, in Pennsylvania.

IN BRASILIA. Canon Ioachimus Maximus de Rocha Pinto, Theologian in the Cathedral of Mariana.

IN ITALY. Eugenius Luzzi, Archdeacon of the Cathedral Church of Spoleto, and Rector of the Archdiocesan Seminary. Constantinus Desanctis, Archdeacon of the Cathedral of Albano Laziale, and Canon, Theologian. Girolimoni Raphael, Parish Priest of the same diocese. Thomas Coccanari, Canon, Theologian of the Cathedral of Tivoli, Pre-Synodal Examiner. Tullius Sericei, Canon, Penitentiary of the Cathedral of Ancona, and Professor of Sacred Theology in the Seminary. Caesar Gariboldi, Canon of the Cathedral Church of the same place, and Professor of Church History in

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the Seminary.

[*Latin ed. p. 708*]

4. Augustine Pugnaloni, Parish Priest and External Vicar of that diocese. Charles VI Borgognoni, Professor in the Institute of Canon and Civil Law at the archdiocesan seminary of Bologna. Charles Mingardi, Priest of the archdiocese of Bologna, appointed to the confessional duties at the *Conservatorio* of Saint Martha. Peter, from the noble family of Leopardi, Canon of the Catholic Church of Penne. Aloysius Sartori, Canon of the cathedral church of Tuscania. Anthony Cocumelli, Canon and Archpriest, distinguished at the Collegiate Church of Saint Stephen in the diocese of Sora. Nicholas Guerrieri, Priest of the diocese of Lecce. Gerland M. Gen-uardi, Beneficiary of the cathedral church of Agrigento, and collector of alms for the Institute for the Propagation of the Faith. Charles Lupo, Priest of that diocese. Aloysius Calenzio, Priest of the archdiocese of Naples. Aloysius Scala, Priest of that archdiocese. Leonard Zappavigna, Parish Priest of the diocese of Cremona. Jacob Amadini, Assistant Parish Priest of that diocese. Joseph Ortalda, Canon and Theologian of the archdiocese of Turin, Director of the pious work for the Propagation of the Faith in the Piedmontese regions, and Director of the publications entitled *Museo delle Missioni Cattoliche*. John Bosco, Director of the celebrated Oratory of Saint Francis of Sales in Turin. Aloysius Grassi, Canon and Collegiate Doctor of the archdiocese of Genoa. Peter Bertapelle, Professor of Philosophy at the seminary of Padua. Father Francis M. Capponi, Conventual Priest in the diocese of Padua. Aloysius Danieli, Parish Priest of the diocese of Padua. Anthony Slaviero, Parish Priest of the same diocese. Anthony Lievore, Priest of the same diocese. Philip Pavan, Priest of the same diocese. Angel Grigoletto, Priest of the same diocese. Honoratus Bambini, Priest of the diocese of Prato. Charles D'Ottavi, Canon of the diocese of Praeneste. Augustus Castiglia, Priest of the diocese of Civita Castellana, and Chaplain of the Pontifical Chapel. Aloysius Bolli, Canon and Parish Priest in the cathedral church of Sutri.

[*Latin ed. p. 709*]

OFFERINGS AND DONATIONS: Offerings received from July 1868 and thereafter, up to the end of December.

RECEIVED: Promised, Anonymous.

200

400

From the ROMAN promotion, Pontifical Libel.

1S8

30

100

100

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From the ARCHDIOCESE of MEDIOLAN.

OFFERINGS:

Named:

The Most Reverend and Venerable Prelate, JOHN BALMA, Bishop of Ptolemaidensis.

The Most Reverend and Venerable Prelate, PHILIPPUS MANETTI, Bishop of Tripolitanus, Administrator Apostolic of the Abbey of Sublacensis.

The Most Reverend and Venerable Prelate, JULIUS LENTI, Bishop of Sutrinus and Nepesinus.

The Most Reverend and Venerable Prelate, GEORGE TALBOT.

20 annual

20

50

36

53,75 annual

annual

18 semestrial

12 annual

12

21 January 1868

401,57

February, first offering, 30th day

11 March, 15 triennial

15

2 May

37,50

18,75

Total: 1275,32 Lira.

Offerings received before July:

Reverend Father HONORATUS BAMBINI, Priest.

Reverend Father JOHN HELLY, Priest.

Reverend and Venerable Canon PETRUS, from Baro.

Reverend and Venerable PHILIPPUS ONETO, from Ia.

From the fruits of the investment of these four.

[*Latin ed. p. 710*]

6. 1275, 32 sum. anter. The following oblations were received, of which many had been promised previously, and were presented in Romana during the month of July 1868. All revenues from the Latin periodical, entitled

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ACTA, etc., less the necessary expenses and those deemed appropriate by its Director, are as follows:

* First Oblation: 1200.

* Illmi et Rmi Domini GUIDUS PATRIZI, Canon of the illustrious Basilica of St. Lawrence in Damaso: 32,25.

* IOACHIMUS CRFSSEDI, Professor of Philosophy and Canon of the Basilica of St. Mary Transtyberim: 32,25.

* FORTUNATUS PELAMI, Archpriest of the Basilica of St. Eustachius, Dean among the Clerks of the Pontifical Chapel, etc.: 107,50 annually.

* 16,121 annually.

* 16,121 semiannually.

* 53,75 semiannually.

* IUVENALIS PELAMI, Archivist of the Holy Office, Dean among the Chaplains of the Pontifical Chapel: Obligation for a public debt of the Pontificate, commonly called "Consolidated," with an original value of 500 *libellae*, a value of 290 at the time of the offering, and the added first portion of the revenue.

* ANGELUS IACOBINI, Assistant in the Holy Visitations, Canon of the Basilica of St. Eustachius: 302,50 semiannually.

* 24 annually.

* 12.

* 32,25 annually.

* 16,121 semiannually.

* 50 annually.

* 50.

* 50 annually.

* 25 semiannually.

* 20 annually.

* 10 semiannually.

* Annually: 12 semiannually.

* ANGELUS LUCIDI, Sub-Secretary of the Holy Congregation of the Council, Canon of the illustrious Basilica of St. Lawrence in Damaso.

* POMPEIUS GAROFALI, Canon of the same illustrious Basilica.

* IOSEPHUS CONTINI, from the innermost chambers of the Holy See, Canon of the same illustrious Basilica.

* ANGELUS PIACITELH, Archivist of the Holy Congregation for Bishops and Patriarchs, Canon of the Basilica of St. Mary of Monte Sancto.

* LAURENTIUS PEIKANO, Secretary of the Holy Penitentiary, Canon of the Basilica of St. Mary Transtyberim.

* TOBIAS KIRBY, from the innermost chambers of the Holy See, Rector

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of the Irish College.

* ANDREAS MOGLIAZZI, Chaplain from the innermost chambers of the Holy See, Canon of St. Anastasia.

* ROCHUS MASI, Master of Ceremonies of the Apostolic See, Beneficiary of the Patriarchal Basilica of the Vatican: 24.

* 50.

* 12 annually.

* 6 semiannually.

* 12 annually.

* 6 semiannually.

* 12 annually.

* 6 semiannually.

* 24 annually.

* 12 semiannually.

* FRANCISCUS MARIA MICHELI, Canon of the illustrious Basilica of St. Lawrence in Damaso.

* PETRUS CROSTAROSA, Canon of the Basilica of St. Mary of Monte Sancto.

* DOMINICUS SARRA, Substitute Secretary of the Holy Congregation of Indulgences.

* 12 annually.

* Semiannually: 6.

Total: 3074 *libellae*, 941.

[*Latin ed. p. 711*]

L. 3074, 944 sum. anter. Promises: CHARLES QUARONI, ALOISIUS FRANCI, Notary, Substitute of the Holy Office of the Inquisition. . . . . IOANNES BAPT. STORTI, Canon of the Basilica of Saint Celsus, Notary Substitute of the Holy Inquisition, PHILIPPUS TECA, Chaplain, Singer in the Pontifical Chapel, IOANNES ARCERI, Beneficiary of the Patriarchal Basilica of Saints Peter and Paul, AUGUSTINUS DE SANCTIS, Chaplain of the Pontifical Chapel, SALVATOR ARCERI, FRANCISCUS GROSSI, Beneficiary of the illustrious Basilica of Saint Lawrence in Damasus, BENEDICTUS LAMPERINI, Cleric-Beneficiary of the Patriarchal Basilica of Saints Peter and Paul, FRANCISCUS CANNETTI, Beneficiary of the Basilica of Saint Lawrence in Damasus, CAIETANUS BURATTI, Cleric-Beneficiary of the Patriarchal Basilica of the Vatican, P. GENEROSUS CALENZIO, Librarian of the Vallicellanus, P. CAROLUS SCARAMUCCI, Prefect of the Oratory of Saint Philip Neri, IOANNES BAP. RUGGIANI, Beneficiary of the illustrious Basilica of Saint Lawrence in Damasus, ALOISIUS BERTACCINI, ANGELUS ZUCCAUI, Cleric-Beneficiary of the Basilica of Saint Lawrence in Damasus, ALOISIUS PETRITOLI, Cleric-

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Beneficiary of the same Basilica. . . . . Received: 24 annual, 6, 12 annual, 12, 6 semestrial, 12, 6 semestrial, 24 annual, 12 semestrial, 12, 24 annual, annual, 6 semestrial, semestrial, 12 annual, trimestrial, semestrial, 12 bimestrial, 2, 5.37, 2 annual, 12 annual, 2 semestrial, 6, 12 annual, semestrial, 6, 6 annual, 10.73 annual, 10.75, 24, 6 annual, 3 semestrial, 3 annual, 1.50 semestrial, 26.87, 26.87, 6.43 annual, annual, annual, annual, in deposit, idem, 26, idem, 26.87, idem, 6.45, 1.50 trimestrial, Illustrious and Reverend Lords, FROM THE PROMOTION OF THE SEE OF SAINT CHRISTOPHER IN THE CANARY ISLANDS: Vincentius Ramon Pelegrina y Lopez, Canon, L Iosephus Martin Méndez, Canon, Decanus, Antonius Montero, Iosephus Truillo, FROM THE PROMOTION IN LYCIENSI: D. Nicolaus Guerrieri, Promotor, Canonicus, Franciscus Maci, Can., Raphael Macldalo, Can., Antonii s Rapani, Can., Alexander Politi, Can., Fridericus Levré, Can., Carolus Ingrosso, Can., Raphael Chirizzi, Can. 12.90, 12.90, 10.75, 2.15, 6.45, 2.15, 2.15. Total: L. 3332.97

[*Latin ed. p. 712*]

8 L. 3332,97 Can. Sanctus Pagliara. Reverend Father Joachim da Campi, Reverend Father Benedict a Scorrano, Doctor Dominicus Serio, Doctor Paulinus Serio, Doctor Salvator Grasso, Doctor Nicolaus Magi, Doctor Horontius Bianco, Doctor Evangelista Trevisi, Doctor Salvator Tornatola, Doctor Vincentius del Prete, Doctor Ianuarius Magi, Doctor Matthaeus Taurino, Doctor Raphael Leccisi, Doctor Raphael Calabrese, Doctor Seraphinus Leuzzi, Doctor Aloisius Guarino, Doctor Ludovicus Guerrieri, Doctor Michael Marino, Doctor Aloisius Schipa, Doctor Henricus de Simone, Doctor Dominicus Schipa, Doctor Angelus Caretto, Doctor Pompilius Anglani.

Summa (Total):

Receptae Promissae (Promises Received): 1,30; 2,15; 6,45; 12,90; 12,90; 6,45; 2,15; 17,20; 11; 11; 11; 11; 11; 2,15; 2,15; 12,90; 6,45; 12,90; 6,45; 3,221; 5,371; 12,90; 12,90; 6,45; 12,90; 4,30; 11; 11; 11; 11.

Ex Promotione Patavina (From the Padua Promotion):

Doctor Petrus Bertapelle, Professor of Philosophy in the Seminary; Doctor Antonius Slaviero, Parish Priest; Doctor Iosephus Fontana, Father Franciscus M. Capponi, Conventual; Doctor Antonius Canal, Doctor Augustinus Bossi, Parish Priest; Doctor Angelus Grigoletlo, Doctor Aloisius Danieli, Parish Priest; Doctor Bernardus Vidale, Doctor Antonius Pertile, Doctor Antonius Lievore, Doctor Franciscus Lucadello; Doctor Andreas Nardello; Doctor Antonius Zanella, Doctor Ioannes Baptista Magnabosco.

Gaspara Biasion: 6 annuals.

5 annuals.

5 annuals.

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12 annuals.
12 annuals.
12 annuals.
6.
6,45.
5.
10.
5.
5.
12.
15.
5.
12.
5.
2.
2,50.
5.
5.
12.

Ex Promotione Spoletina (From the Spoleto Promotion):

Eugenius Luzzi, Archdeacon of the Cathedral Church of the Metropolitan Archdiocese of Spoleto.

C. F. L. Spoletinus (Spoleto Cleric, First Tonsure, Lesser Orders).

F. T. Spoletinus (Spoleto Cleric, Tonsured).

Benedictine Nuns of the Monastery.

Franciscan Nuns of the Monastery.

Benedictine Nuns of the Monastery at Stella.

Summa (Total): L. 3625,47.

(The remaining entries are likely to indicate payment periods, such as "bimestris" meaning "bimonthly," but without further context, their precise meaning is unclear.)

[*Latin ed. p. 713*]

9 L. 3625,47 FROM THE PROMOTION OF THE CITY of Summa, concerning the Received Promises of the CASTELIAN: Joseph Bracci, Canon, ... Augustine Bracci, Canon, ... 50 FROM THE REMAINING PROMOTIONS OR DIOCESES IN WHICH PROMOTERS ARE NOT YET PRESENT: Canon Thomas Coccanari, Theologian of the Diocese of Tiburtina; Charles Maria Borgognoni, Professor in the Seminary of Bologna; Canon Aloysius Sartóri, Diocese of Tuscania; Gerlandus Maria

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Genunrdi, Beneficiary in the Cathedral of Agrigento, for his diocese; Ioachimus Ridella, Parish Priest and Pro-Vicar Foraneus of Derothonensis, offered a credit against a debt to Milan... 210 Also, a credit bearing interest, of nominal value, to Augustine Bardati, a layman of the same diocese; Charles Olivieri, a layman of the same... Canon Charles D'Ottavi, diocese of Praenestina; Salvator Randazzo, diocese of Messina, for the first time 5 5 5,371 in deposit; the same annually 2,15 FROM THE PROMOTION OF REGTNENSIS: In this Diocese, the Promotion began in the month of December. The Illustrious and Reverend Prelate, Dominic De Angelis, Vicar General, ... Canon Rochus Zagari, Parish Priest, ... Canon Joseph Ventre; Canon Vincentius Palamia; Canon Franciscus Giuffré; Canon Paschalis Cardone; Canon Matthaeus Cardone; Canon Antonius Musumeci; Franciscus Furci, Parish Priest, ... Dominic Mandalari, Parish Priest; Franciscus Xaverius Ferrante; Canon Carmelus Mancuso, for the first time 10 6,45 6,45 12,90 6,45 2,50 6,45 2,15 6,45 12,90 5,371 6,45 New semi-annual fruits from the books invested up to 1765... 75 Total: L. 3862,42 " To be deducted for printing expenses: L. 550; also L. 50 for other necessary and minor expenses 600.00 The remaining sum is L. 3262,42 in deposit.

[*Latin ed. p. 714*]

10. DECLARATIONS. We have received letters from promoters, both from Italia and from other places outside of Italia, who have informed us that what we mentioned in the program, page 1, regarding the overcoming of more serious difficulties, namely: that the students intended for the Seminary, in order that all may benefit the Seminary, are first selected from the City; then from Italia; and subsequently from those places and nations which are adjacent to Italia and closer to Romae, as the Presidents will determine... although they may be assigned to any place. Since this preference for certain locations was not pleasing, the matter was discussed at a Congress held on December 10, 1868, by the Roman Promotion, which is temporarily managing this pious institution, and after explanations, all the promoters came to the same opinion, that any preference for certain locations should be removed and understood to be deleted from the program. A SUMMARY OF THE PROGRAM. It is expedient here briefly to recall what was proposed in the program. The intention is to establish a new and unique Seminary in Romae, to be built gradually; which, with due proportion, will be of the same nature and character as the Seminaries of individual dioceses, according to the Tridentinum Decree; but in such a way that this Seminary will be of the Apostolic See, since this is the mother and head of all churches. From this concept, the following easily follows: 1. Just as the Tridentine Seminaries were established for the good of individual dioceses, so the proposed Seminary will be established for the good of the Catholic Church, without any distinction of places; so that students may be sent to any seat of the Catholic Church where there is the

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greatest need, such as, in the first place, the more miserable locations of the missions. 2. In this Seminary, all will be received, of whatever nation and condition, provided that they show the signs of Divine Vocation for the ecclesiastical state.

[*Latin ed. p. 715*]

11. Demonstrating their zeal, they shall be selected with the intention of receiving the mission entrusted to them by the Roman Pontiff. 3° The students shall be established in a designated seminary, so that the Apostolic Vicars or Sacred Ministers to whom they will be subject may immediately utilize these students for their own seminaries or schools, whether already established or to be established; and these students shall devote their efforts and ministry primarily to teaching ecclesiastical letters and sciences, so that the indigenous clergy, in each place to which they are sent, may either be increased if it exists, or established if it is lacking. 4° Since the seminaries of Trent are established either through funds provided, or through ecclesiastical goods of the diocese, or through contributions of the diocesan clergy, or even through the generosity of the laity; it is fitting that the designated seminary be established through offerings of any faithful; especially, however, through the aid and generosity of the Catholic clergy, who, by reason of the noble rank they hold in the Church, are most fitting to recognize the universal importance and benefit of this cause. 5° The Council of Trent decreed that six deputies should be appointed for each diocesan seminary, under the authority of the Bishop; and when a matter pertaining to the entire diocese was being considered, it was determined that four of these deputies should be chosen in such a way that two should be from the number of Canons, and two from the rest of the diocesan clergy. Therefore, in accordance with this decree of Trent, and considering the nature of the designated seminary, it is most fitting that there be appointed as deputies of this seminary (under a designated Prefect and order), those who already govern the other seminaries in Rome, namely, the Rectors of the ecclesiastical colleges established in Rome, of whatever nation they may be: for these, by their office, represent their nation or the clergy of their nation in Rome; and since they remain in Rome, they can rightly be considered both Roman and foreign. There are approximately twenty of these Rectors at present, of whom nearly half are Italian; the rest are of various nations.

[*Latin ed. p. 716*]

12. A SIMPLE METHOD BY WHICH A SEMINARY MAY BE ESTABLISHED. Since two things are necessary for the establishment of any seminary, namely, revenue and suitable students, a most extensive ecclesiastical society has been proposed, of which we have already explained the very beginning and its principal fruit. To this pious society, established

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under the invocation of the Princes of the Apostles, all ecclesiastics of any nation may belong who so desire. These ecclesiastics are divided into two principal classes: some are called Promoters; others are called Oblates: and even laymen may contribute to the Oblates' fund. The ecclesiastics who are called Promoters are obligated by their zeal and charity to: 1° to seek out Oblates and to collect offerings, according to the law and method which they themselves deem best; 2° to suggest, that is, to make known, according to the opportunity, some young man, especially if he is poor, whom they believe to be called by God for the purpose of the seminary. It is desirable that these ecclesiastics, the Promoters, should exist in each diocese, in much the same way as the collectors of the pious Institute for the Propagation of the Faith exist in each diocese. These ecclesiastics are in correspondence by letter with the Roman Promotion, which, in the meantime, governs this pious institution. They send to this Roman Promotion the offerings collected and the names of the Oblates. A public accounting is given at least every year, of both the offerings received and the condition of the pious institution. These accounts are published in the Latin periodicals entitled *Acta*, which are published by the Holy Congregation for the Propagation of the Faith. These periodicals, if they have anything to announce, such as the names of new Promoters, new offerings, whether received or merely promised, or anything else that concerns the pious institution, announce it each month. Letters and offerings can, in the meantime, be sent to any Promoter from the aforementioned Roman Promotion; but regularly, they should be sent to the Director of the Latin periodical at the Printing House of the Propagation of the Faith, who holds the office of Secretary in this pious institution.

[*Latin ed. p. 717*]

13. The seminary, which for the time being we call the "Latin Seminary," will receive as many students as prudent foresight allows, based on the offerings received; and care will be taken to investigate the offerings, so that a fixed and permanent endowment may be established gradually. Ecclesiastics, who are called "Promoters," are divided into two orders: the first order consists of Bishops and Vicars General, to whom belongs the giving of the name to the pious Society; the second order includes, and we will subsequently insert among them, also "Sub-Promoters." However, the Pastors of the Churches, to whom, by their very nature, the entire pious Society is entrusted, if they deign to give the name, are called "Distinguished Promoters." As this pious institution gradually grows, and with its canonical erection sought, the aforementioned Rectors will be called to the presidency, and they will decide what they judge to be best to do in the Lord. This is the simple structure of the pious institution. Everyone can easily see that this pious work is established in such a way that, although we confidently expect the proposed seminary to become very large with God's

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help, it will nevertheless begin in a way in which good seed, when sown in the earth, germinates and grows. We conclude this appendix by inviting the Promoters not to fail to inform us if they know of any poor young men who have a desire to dedicate themselves to the sacred ministry, but who are unable to fulfill that desire due to a lack of means. And if the Pastors of the Churches would deign to suggest such individuals, we would receive their counsel as if it were an oracle.

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